EXTENSIONS OF REMARKS

TRIBUTE TO THE LATE ADMIRAL ALAN SHEPARD

HON. F. JAMES SENSENBRENNER, JR.
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. SENSENBRENNER. Mr. Speaker, we are saddened to learn of the passing of one of America's great pioneers, Rear Admiral Alan Shepard. Admiral Shepard leaves an enduring legacy of heroism, perseverance, and dedication to the exploration of space ad service to his country.

Admiral Shepard served as a Navy fighter pilot and test pilot before being selected as one of the first group of astronauts in 1959. As the commander of Freedom 7, Admiral Shepard became the first American to venture into space.

Following his historic flight, Admiral Shepard was told he would never fly into space again. But he would not be deterred. Ten years later, he commanded Apollo 14 and was the fifth American—the fifth person—to walk on the Moon.

Those who have worked with Admiral Shepard in both the formulation of space policy and oversight of America's space program came to appreciate his wise counsel and fine wit as he educated us on the complex issues involved. I am confident that his contributions to America's space program will not be forgotten by his countrymen.

Admiral Shepard also served his country outside of the cockpit. Following his retirement from NASA and the U.S. Navy in 1974, he brought his determination and leadership to down-to-Earth goals, becoming a successful businessman and raising money for college scholarships so young Americans could grow up to become scientists and engineers. He was on the Board of Directors for both the Houston School for Deaf Children and the National Space Institute.

This afternoon, Admiral Shepard's spacecraft, ''Freedom 7'' will arrive at the National Air and Space Museum where it will be on display in remembrance of not only his historic first flight into space, but of the lasting contributions of this great American to his country.

And now, Admiral Shepard has joined his fellow crewman of Apollo 14—the late Stuart Roosa—and we wish him fair winds and following seas, and offer our condolences to his wife Louise, and his daughters Laura, Alice and Julie.

A TRIBUTE TO ALYCE LIVINGSTON

HON. GLENN POSHARD
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to my constituent and dear friend, Mrs. Alyce J. Livingston of Decatur, Illinois who has recently passed. She was a devoted citizen and my condolences and best wishes go to her family and all who will miss her.

Alyce was born on July 19, 1934 in Paducah, Kentucky. She was a dedicated student, and her scholastic excellence throughout her years at Lincoln High and West Kentucky Vocational School led her to my district during the 1950's, where she attended Millikin University.

Alyce recognized the importance of providing quality child care service to Decatur's next generation. As founder and director of the Tiny Tots Nursery, she inspired and shaped our young children. In addition, Alyce was also a lab technician for the A.E. Stanley Manufacturing Company, where she provided nearly thirty years of service.

As a faithful community leader, Alyce spent her time helping the city of Decatur and increasing momentum in the Civil Rights struggle. She was a long time member of the National Association for the Advancement of Colored People (NAACP), where she served as an advisor and member of the Joe Slaw Civil Rights Awards Committee. Her strong beliefs in equality fostered her persistent efforts to build unity in Decatur. Furthermore, Alyce was a Decatur Township Trustee who committed five years to the city and was a member of the St. Peter's African Methodist Episcopal Church. She is survived by her husband of 40 years, Mr. David C. Livingston, President of the Illinois NAACP, and her two sons, Malcolm and David.

Mr. Speaker, citizens such as Alyce Livingston exemplify the undying devotion critical to community involvement. I will miss her dedication, her persistence, and most of all, her friendship. Mr. Speaker, please join me in recognizing Mrs. Alyce J. Livingston whose dedication to her career, community, and her personal convictions had a profound impact on those who knew her, including myself. It has been an honor to have represented her in the United States Congress.

CONGRATULATING WILLIAM SCHIERBROCK

HON. GREG GANSKE
OF IOWA
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. GANSKE. Mr. Speaker, I rise to speak of William Schierbrock of Council Bluffs, Iowa, who was honored on July 12, 1998 for his attainment of Eagle Scout.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in congratulating William Schierbrock for his commendable achievement. His parents Thomas and Jeanette Schierbrock can be proud of their son because it takes a great deal of tenacity and devotion to achieve such an illustrious ranking. This young man has a promising future ahead of him.

IN HONOR OF THE 50TH ANNIVERSARY OF THE STATE OF ISRAEL

HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the 50th Anniversary of the State of Israel. Over the course of its history, this democracy has built a thriving economic and political system and a unique culture, in spite of internal and external challenges and hardships. Today, Israel shares a common goal of advancing the cause of humanity, seeking a stable and genuine peace in the Middle East, and generously shares its collective gifts with the rest of the world.

Israel and the United States share a common background based on pioneering and a united people's determination for political independence. Both countries were built on democratic principles which have withstood the test of time, serving as beacons of freedom, hope and opportunity.

Although situated across an entire ocean, thousands of miles apart, Israel and the United States have many similarities. An open exchange of ideas has cultivated the special relationship between the two countries. Over its fifty years in existence, Israel has become a State that has achieved considerable advancements. In honor of the 50th Anniversary of the State of Israel's establishment, many organizations in the Cleveland area, such as the Jewish Community Federation of Cleveland, will host commemorative celebrations.

My fellow colleagues, please join me in recognizing this exciting and momentous occasion.

HONORING KAVANAGH'S FURNITURE FOR THEIR 125 YEARS OF BUSINESS

HON. RICHARD E. NEAL
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, I am privileged today to have the opportunity to acknowledge and honor Kavanagh Furniture of Springfield, MA, for its 125th year of business.

In 1873, Mr. Dennis Nelen opened his establishment as a ''wholesaler and retailer in elegant furniture, hair and husk mattresses'' and before 1900 he partnered with Mr. William Kavanagh. Today, Kavanagh's is the largest furniture store in Western Massachusetts and has three sister stores with a fourth on the way. It is Springfield's oldest family owned business still in existence and one of the oldest operating furniture stores in the entire United States.

In an era where retailers often sacrifice quality service for quantity sold, Kavanagh's

has remained a testament to the beauty of the family business. in their establishment, quality service is a trait passed down through the generations. Mr. Jack Nelen, who became Kavanagh's president in 1965 and is the grandson of the original founder, began making deliveries for the store when he was just a teenager. The success of a family business can be measured, in part, by the duration of its existence. Kavanagh Furniture has survived and flourished through two world wars, the Great Depression, and several other fluctuations in the economy. They were also able to last during the recession of the early 90s even though furniture was considered a luxury by many. Perhaps more impressive has been Kavanagh's ability to survive the local ''big chain'' competition, while located in an area not supported by mega-mall traffic. In this regard, the Nelen family business can be considered a huge success and a strong example for other family businesses.

Only 1 out of 30,000 retail stores makes it to be 100 years old, and Kavanagh's has now reached its 125th year in the business. Not only has Kavanagh's created lasting personal success for its owners and employees, it has been an enormous asset to the community and neighborhood as well. Its list of civil activities and commitments includes being a catalyst for and taking part in fund raisers for The Children's Miracle Network, Shriner's Hospital, the Red Cross, and the United Way. Kavanagh's once even held a free picinc for over 2,500 city kids.

The Kavanagh Furniture store is an anchor for the community. It has taken care of its customers and has been rewarded with 125 years of business. I wish the Nelen family and all of the folks at Kavanagh's success in continuing a great tradition of excellent service to their customers and the community at large as they embark on the 21st century and another 125 years.

STRUCTURED SETTLEMENT PROTECTION ACT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. SHAW. Mr. Speaker, today I rise along with my colleague Mr. STARK and a broad bipartisan group of our colleagues from the Ways and Means Committee to introduce the Structured Settlement Protection Act.

The Act addresses serious public policy concerns that are raised by transactions in which so-called factoring companies purchase recoveries under structured settlements from injured victims.

Recently there has been dramatic growth in these transactions in which injured victims are induced by factoring companies of sell off future structured settlement payments intended to cover ongoing living and medical needs in exchange for a sharply-discounted lump sum that then may be dissipated, placing the injured victim in the very predicament the structured settlement was intended to avoid.

As long-time supporters of structured settlements and the congressional policy underlying such settlements, we have grave concerns that these factoring transactions directly undermine the policy of the structured settlement tax rules. The Treasury Department shares these concerns.

Because the purchase of structured settlement payments by factoring companies so directly thwarts the congressional policy underlying the structured settlement tax rules and raises such serious concerns for structured settlements and injured victims, it is appropriate to deal with these concerns in the tax context.

Accordingly, we are proposing legislation to impose a substantial excise tax on the factoring company that purchases the structured settlement payments from the injured victim. The excise tax would be subject to an exception for genuine court-approved hardship cases to protect the limited instances of true hardship.

The following is a detailed discussion of the Bill's provisions.

BACKGROUND

In acting to address the concerns over factoring companies that purchase structured settlement payments from injured victims, the Treasury Department noted that: ''Congress enacted favorable tax rules intended to encourage the use of structured settlements—and conditioned such tax treatment on the injured person's inability to accelerate, defer, increase or decrease the periodic payments—because recipients of structured settlements are less likely than recipients of lump sum awards to consume their awards too quickly and require public assistance.'' (U.S. Department of the Treasury, General Explanations of the Administration's Revenue Proposals (Feb. 1998), p. 122).

Treasury then observed that by enticing injured victims to sell off their future structured settlement payments in exchange for a heavily discounted lump sum that may then be dissipated: ''*These 'factoring transactions' directly undermine the Congressional objective to create an incentive for injured persons to receive periodic payments as settlements of personal injury claims.*'' (Id. at p. 122 [emphasis added].)

The Joint Tax Committee's analysis of the issue echoes these concerns: ''Transfer of the payment stream under a structured settlement arrangement arguably subverts the purpose of the Code to promote structured settlements for injured persons. (Joint Committee on Taxation, Description of Revenue Provisions Contained in the President's Fiscal Year 1999 Budget Proposal (JCS–4–98), (February 24, 1998), p. 223).

The Treasury Department in the Administration's FY 1999 Budget has proposed a 20-percent excise tax on factoring companies that purchase structured settlement payments from injured victims. Under the Administration's proposal, ''any person purchasing (or otherwise acquiring for consideration) a structured settlement payment stream would be subject to a 20 percent excise tax on the purchase price, unless such purchase is pursuant to a court order finding that the extraordinary and unanticipated needs of he original recipient render such a transaction desirable.'' (Treasury General Explanation, at p. 122.) The proposal would apply to transfers of structured settlement payments made after date of enactment.

DESCRIPTION OF THE ACT

1. Stringent Excise Tax on Persons Who Acquire Structured Settlement Payments in Factoring Transactions.

In its analysis of the Administration's proposal, the Joint Tax Committee notes the potential concern that in some cases the imposition of a 20-percent excise tax may result in the factoring company passing the tax along by reducing even further the already-heavily discounted lump sum paid to the injured victim for his or her structured settlement payments. The Joint Committee notes that ''[o]ne possible response to the concern relating to excessively discounted payments might be to raise the excise tax to a level that is certain to stop the transfers (perhaps 100 percent). . . .'' (Joint Committee on Taxation, Description of Revenue Provisions Contained in the President's Fiscal Year 1999 Budget Proposal (JCS–4–98) (February 4, 1998), p. 223).

Factoring company purchases of structured settlement payments so directly subvert the Congressional policy underlying structured settlements and raise such serious concerns for structured settlements and the injured victims that it is appropriate to impose on the factoring company a more stringent excise tax rate applied against the amount of the discount reflected in the factoring transaction (subject to a limited exception described below for genuine court-approved hardships).

Accordingly, the Act would impose on the factoring company that acquires structured settlement payments directly or indirectly from the injured victim an excise tax equal to 50 percent of the difference between (i) the total amount of the structured settlement payments purchased by the factoring company, and (ii) the heavily-discounted lump sum paid by the factoring company to the injured victim.

Similar to the stiff excise taxes imposed on prohibited transactions in the private foundation and pension contexts—which can range as high as 100 to 200 percent—this stringent excise tax is necessary to address the very serious public policy concerns raised by structured settlement factoring transactions.

Unlike the Administration's proposed tax imposed on the purchase price paid by the factoring company, the excise tax imposed on the factoring company under the Act would use a more stringent tax rate of 50 percent and would apply to the excess of the total amount of the structured settlement payments purchased by the factoring company over the heavily-discounted lump sum paid to the injured victim.

The excise tax under the Act would apply to the factoring of structured settlements in tort cases and in workers' compensation.

A structured settlement factoring transaction subject to the excise tax is broadly defined under the Act as a transfer of structured settlement payment rights (including portions of payments) made for consideration by means of sale, assignment, pledge, or other form of alienation or encumbrance for consideration.

2. Exception from Excise Tax for Genuine, Court-Approved Hardship

The stringent excise tax would be coupled with a limited exception for genuine, court-approved financial hardship situations. Drawing upon the hardship standard enunciated in the Treasury proposal, the excise tax would apply to factoring companies in all structured settlement factoring transactions except those in which the transfer of structured settlement payment rights (1) is otherwise permissible under applicable Federal and State law and (2) is undertaken pursuant to the order of a court (or where applicable, an administrative authority) finding that ''the extraordinary, unanticipated, and imminent needs of the structured settlement recipient or his or her spouse or dependents render such a transfer appropriate.''

The exception is intended to apply to the limited number of cases in which a genuinely ''extraordinary, unanticipated, and imminent hardship'' has actually arisen and been demonstrated to the satisfaction of a court

(e.g., serious medical emergency for a family member). In addition, as a threshold matter, the transfer of structured settlement payment rights must be permissible under applicable law, including State law. The Act is not intended by way of the hardship exception to the excise tax or otherwise to override any Federal or State law prohibition or restriction on the transfer of the payment rights or to authorize factoring of payment rights that are not transferable under Federal or State law. For example, the States in general prohibit the factoring of workers' compensation benefits. In addition, the State laws often prohibit or directly restrict transfers of recoveries in various types of personal injury cases, such as wrongful death and medical malpractice.

The relevant court for purposes of the hardship exception would be the original court which had jurisdiction over the underlying action or proceeding that was resolved by means of the structured settlement. In the event that no action had been brought prior to the settlement, the relevant court would be that which would have had jurisdiction over the claim that is the subject of the structured settlement or which would have jurisdiction by reason of the residence of the structured settlement recipient. In those limited instances in which an administrative authority adjudicates, resolves, or otherwise has primary jurisdiction over the claim (e.g., the Vaccine Injury Compensation Trust Fund), the hardship matter would be the province of that applicable administrative authority.

3. Need to Protect Tax Treatment of Original Structured Settlement

In the limited instances of extraordinary and unanticipated hardship determined by court order to warrant relief under the hardship exception, adverse tax consequences should not be visited upon the other parties to the original structured settlement. in addition, despite the anti-assignment provisions included in the structured settlement agreements and the applicability of a stringent excise tax on the factoring company, there may be a limited number of non-hardship factoring transactions that still go forward. If the structured settlement tax rules under I.R.C. §§72, 130 and 461(h) had been satisfied at the time of the structured settlement, the original tax treatment of the other parties to the settlement—i.e., the settling defendant (and its liability insurer) and the Code section 130 assignee—should not be jeopardized by a third party transaction that occurs years later and likely unbeknownst to these other parties to the original settlement.

Accordingly, the Act would clarify that if the structured settlement tax rules under I.R.C. §§72, 130, and 461(h) had been satisfied at the time of the structured settlement, the section 130 exclusion of the assignee, and section 461(h) deduction of the settling defendant, and the Code section 72 status of the annuity being used to fund the periodic payments would remain undisturbed.

That is, the assignee's exclusion of income under Code section 130 arising from satisfaction of all of the section 130 qualified assignment rules at the time the structured settlement was entered into years earlier would not be challenged. Similarly, the settling defendant's deduction under Code section 461(h) of the amount paid to the assignee to assume the liability would not be challenged. Finally, the status under Code section 72 of the annuity being used to fund the periodic payments would remain undisturbed.

The Act provides the Secretary of the Treasury with regulatory authority to clarify the treatment of a structured settlement recipient who engages in a factoring transaction. This regulatory authority is provided to enable Treasury to address issues raised regarding the treatment of future periodic payments received by the structured settlement recipient where only a portion of the payments have been factored away, the treatment of the lump sum received in a factoring transaction qualifying for the hardship exception, and the treatment of the lump sum received in the non-hardship situation. It is intended that where the requirements of section 130 are satisfied at the time the structured settlement is entered into, the existence of the hardship exception to the excise tax under the Act shall not be construed as giving rise to any concern over constructive receipt of income of the injured victim at the time of the structured settlement.

4. Tax Information Reporting Obligations With Respect to a Structured Settlement Factoring Transaction

The Act would clarify the tax reporting obligations of the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs. The Act adopts a new section of the Code that is intended to govern the payor's tax reporting obligations in the event of a factoring transaction.

In the case of a court-approved transfer of structured settlement payments of which the person making the payments has actual notice and knowledge, the fact of the transfer and the identity of the acquirer clearly will be known. Accordingly, it is appropriate for the person making the structured settlement payments to make such return and to furnish such tax information statement to the new recipient of the payments as would be applicable under the annuity information reporting procedures of Code section 6041 (*e.g.*, Form 1099–R), because the payor will have the information necessary to make such return and to furnish such statement.

Despite the anti-assignment restrictions applicable to structured settlements and the applicability of a stringent excise tax, there may be a limited number of non-hardship factoring transactions that still go forward. In these instances, if the person making the structured settlement payments has actual notice and knowledge that a structured settlement factoring transaction has taken place, the payor would be obligated to make such return and to furnish such written statement to the payment recipient at such time, and in such manner and form, as the Secretary of the Treasury shall by regulations provide. In these instances the payor may have incomplete information regarding the factoring transaction, and hence a tailored reporting procedure under Treasury regulations is necessary.

The person making the structured settlement payments would not be subject to any tax reporting obligation if that person lacked such actual notice and knowledge of the factoring transaction.

Under the Act, the term ''acquirer of the structured settlement payment rights'' would be broadly defined to include an individual, trust, estate, partnership, company, or corporation.

The provision of section 3405 regarding withholding would not apply to the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs.

5. Effective Date

The provisions of the Act would be effective with respect to structured settlement factoring transactions occurring after the date of enactment of the Act.

NATIONAL WEATHER SERVICE—OVER 200 YEARS OF FORECASTING, WARNING AND PROTECTING THE AMERICAN PEOPLE

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. ROEMER. Mr. Speaker, I rise to bring to my colleagues' attention the outstanding work of the National Weather Service. Especially during this red-hot summer, we should acknowledge the tremendous work of the National Weather Service to observe, predict, forecast and warn the American people of weather events.

The National Weather Service, as part of the National Oceanic and Atmospheric Administration [NOAA] of the Department of Commerce, utilizes a wide variety of tools, from low-tech to state of the art technology to accurately predict and forecast what will happen in our skies today, tomorrow, and beyond.

It was suggested earlier today that the National Weather Service doesn't have sufficient records of past weather conditions to be able to put this summer's heat wave in proper historical perspective. I would like to remind my colleagues that the NOAA has the world's largest active archive of weather data. Not only can they tell you what the weather was in the 1950's, they can tell you what the temperature and conditions were during the early days of the republic.

How do we now that? The NOAA's National Climatic Data Center has Benjamin Franklin's handwritten observations of the heat and humidity of a Philadelphia summer over 200 years ago.

Not only does the NOAA have an incredible store of historical data, they are receiving 55 gigabytes of new weather information each day—the equivalent of 18 million pages a day.

Armed with this wealth of historical data, and constantly added to and refined with the incorporation of new satellite and computer information, the National Weather Service creates computer models. These models reflect the heritage of past weather systems, to accurately forecast tomorrow's weather. So when the National Weather Service says its going to be hot tomorrow in South Bend, or Dallas or St. Louis, you can count on it.

I commend the NOAA and the NWS on their outstanding work on behalf of the American people.

AMERICA FACES THREAT FROM A BALLISTIC MISSILE ATTACK

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. GINGRICH. Mr. Speaker, as former Secretary of Defense Donald Rumsfeld pointed out earlier this week, America faces a very real and serious threat from a ballistic missile attack. The bipartisan Rumsfeld commission unanimously concluded that the threat is much greater and the warning time available to defend against that threat is much shorter than the Clinton administration has admitted. Finally, the commission expressed concern that

the ability of our intelligence community to assess these threats is severely deteriorating. I believe that it is now more important than ever to renew our commitment to working to deploy a national missile defense system. I want to bring the following enlightened editorials by William Safire, Frank Gaffney, Jr., and Thomas Moore to the attention of my colleagues which echo the serious concerns expressed by Mr. Rumsfeld and his colleagues on the Commission.

[From the Washington Times; July 21, 1998]

ALARM BELL ON VULNERABILITY TO MISSILES

THE UNITED STATES MUST PROMPTLY BEGIN DEPLOYING DEFENSES AGAINST BALLISTIC MISSILE ATTACK

(By Frank Gaffney, Jr.)

The release last week of a long-awaited ''second opinion'' on the missile threat to the United States more than lived up to high expectations.

The blue-ribbon, bipartisan panel—chartered by Congress and ably led by former Defense Secretary Donald Rumsfeld—unanimously warned that ''the U.S. might well have little or no warning before operational deployment'' of ballistic missiles capable of delivering, for example, Iranian, Iraqi or North Korean weapons of mass destruction against American cities.

This finding stands in stark contrast to the pollyannish, and highly politicized, judgment rendered by the Clinton administration's 1995 National Intelligence Estimate (NIE) on the emerging danger posed by ballistic missiles. Incredibly, that NIE found there would be no threat from long-range ballistic missiles for at least 15 years.

Of course, in order to reach this preposterously sanguine conclusion, the Intelligence Community had to make three heroic assumptions:

(1) Neither Russia nor China—which have such long-range missiles in place today—would pose a danger.

(2) Neither of these nations would help any other state accelerate the acquisition of ballistic missile technology.

(3) And only the continental United States would be considered as targets, since Alaska and Hawaii would be within range of medium-range missiles from Korea.

The Rumsfeld Commission made short work of these assumptions. It noted that Russia and China are both undergoing unpredictable transitions and are actively spreading ballistic missile and other dangerous technologies. (The commission also confirms a recent finding of Sen. Thad Cochran's Governmental Affairs Subcommittee that the United States is itself an important, albeit unintentional, contributor to the hemorrhage of proliferation-sensitive equipment and know-how.)

Perhaps most importantly, Mr. Rumsfeld and his cohorts—including Dr. Berry Blechman, Dr. Richard Garwin and Gen. Lee Butler, individuals expected by the Democrats who appointed them to dissent from any sharp critique of the administration's NIE and, thereby, to neutralize the impact of the commission's findings—addressed themselves to the missile threat to all of the United States. They confirmed that Alaska and Hawaii are at risk in the near-term. The Rumsfeld commissioners went on, however, to point out that missiles now in the inventories of virtually every bad actor on the planet could be readily launched from tramp steamers or other vessels at the vast majority of the American population living within 100 miles of the nation's coastlines.

As columnist William Safire pointed out in the New York Times yesterday, this reality means the United States could be subjected to blackmail, with potentially profound diplomatic and strategic implications. He lays out three frighteningly plausible scenarios in which the use of North Korean, Iraqi or Chinese missiles are threatened to compel American accommodation.

Moreover, Mr. Safire makes explicit a conclusion the Rumsfeld Commission could only imply, given that its mandate was limited to addressing the missile threat, not what should be done in response to it: The United States must promptly begin deploying defenses against ballistic missile attack. Mr. Safire endorses an approach that will produce far more effective anti-missile protection, far faster and far more inexpensively than any other option—by adapting the Navy's AEGIS fleet air defense system to give it robust missile-killing capabilities.

The AEGIS option has been receiving increasing support in recent weeks. A classified study prepared by the Pentagon's Ballistic Missile Defense Organization that has just been released to Congress reportedly confirms the conclusions of an analysis prepared by another blue-ribbon commission sponsored a few years ago by the Heritage Foundation: Sea-based missile defenses are technically feasible and could contribute significantly to protecting the United States—all the United States—as well as America's forces and allies overseas against ballistic missile attack.

The inherent appeal from strategic, technical and fiscal points of view also prompted Jim Nicholson, the chairman of the Republican National Committee, to make prompt deployment of the AEGIS system the centerpiece of a dramatic pronouncement: In these pages on June 21, he invited ''President Clinton, Vice President Al Gore and other Democrats to join [the GOP] and make safeguarding America [against ballistic missile attack] a bipartisan project. If they will not, the Republican Party is prepared to have this become a political issue.''

The problem, as Mr. Safire has pointed out, is that a sea-based missile defense (and indeed, any other that would provide territorial protection of the United States) is inconsistent with the 1972 Anti-Ballistic Missile (ABM) Treaty. Worse yet, the nation would even be denied the ability to adapt the AEGIS system to make effective defenses against short-range missiles if new treaty arrangements negotiated by the Clinton administration and signed in New York last September are ratified.

The good news is that the Senate seems unlikely to go along with these agreements. This is particularly true in light of a new legal memorandum prepared for Heritage and providing analytical backup for the common-sense proposition that the ABM Treaty ceased to exist after the other party, the Soviet Union, ceased to exist. It is hard to believe any responsible Senator would want to adopt new treaty impediments to missile defenses in the grim strategic environment described by the Rumsfeld Commission.

The bad news is that the Clinton administration is proceeding with implementation of the September agreements even though they have yet to be submitted to the Senate for its advice and consent, to say nothing of their having been approved. In a May 1 memorandum, Defense Secretary William Cohen directed that ''formal planning and preparation activities'' to ensure compliance with these accords be undertaken using fiscal 1998 funds. As a practical matter, this means steps that would be non-compliant—for example, developing more capable Navy missile interceptors for the AEGIS system—will be strangled in the crib.

Taken all together, these developments make one thing perfectly clear: The United States will be defended against missile attack. The only question is: Will its defenses be put into place before they are needed, or after? The answer depends on leadership. With the warning given by the Rumsfeld report and the feasible, affordable defense offered by the AEGIS option, there is no excuse for not providing such leadership on a bipartisan basis. Failing that, the Republicans must not shrink from doing so as a ''political issue.''

[From the New York Times, July 20, 1998]

TEAM B VS. C.I.A.—RUMSFELD REPORT: IGNORE AT PERIL

(By William Safire)

WASHINGTON.—Imagine you are the next U.S. President and this crisis arises:

The starving army of North Korea launches an attack on South Korea, imperiling our 30,000 troops. You threaten massive air assault; Pyongyang counterthreatens to put a nuclear missile into Hawaii. You say that would cause you to obliterate North Korea; its undeterred leaders dare you to make the trade. Decide.

Or this crisis: Saddam Hussein invades Saudi Arabia. You warn of Desert Storm II; he says he has a weapon of mass destruction on a ship near the U.S. and is ready to sacrifice Baghdad if you are ready to lose New York. Decide.

Or this: China, not now a rogue state, goes into an internal convulsion and an irrational warlord attacks Taiwan. You threaten to intervene; within 10 minutes, ICBM's are targeted on all major U.S. cities. Decide.

Before you do, remember this: in 1998, the C.I.A. told your predecessor that it was highly unlikely that any rogue state ''except possibly North Korea'' would have a nuclear weapon capable of hitting any of the ''contiguous 48 states'' within 10 to 12 years. (That's some exception; apparently our strategic assessors are untroubled at the prospect of losing Pearl Harbor again.)

You have no missile defense in place. The C.I.A. assured your predecessor you would have five years' warning about other nations' weapons development before you would have to deploy a missile defense.

But the C.I.A. record of prediction is poor. President Bush was assured that Saddam would have no nuclear capability for the next 10 years; when we went in after he invaded Kuwait, however, we discovered Iraq to be less than a year away. And India, despite our expensive satellite surveillance, surprised us with its recent explosion.

Six months ago, Congress decided to get a second opinion about our vulnerability. Donald Rumsfeld, a former Defense Secretary, was named to lead a bipartisan Commission to Assess the Ballistic Threat to the United States. Its nine members are former high Government officials, military officers and scientists of unassailable credibility. Cleared for every national secret, these men with command experience had the advantage denied to compartmented C.I.A. analysts.

The unclassified summary of this ''Team B's'' 300-page report was released last week and is a shocker. The direct threat to our population, it concluded, ''is broader, more mature and evolving more rapidly than has been reported in estimates and reports by the intelligence community.''

Not only are Iran and other terrorist states capable of producing a nuclear-tipped missile within five years of ordering it up; they are capable of skipping the testing and fine-tuning we have depended on as our cushion to get defenses up. That means, the commission concluded, the warning time the U.S. will have to develop and deploy a missile defense is near zero.

Let's set aside our preoccupation with executive privileges and hospital lawsuits long

enough to consider the consequences of Team B's judgment. The United States no longer has the luxury of several years to put up a missile defense, as we complacently believe. If we do not decide now to deploy a rudimentary shield, we run the risk of Iran or North Korea or Libya building or buying the weapon that will enable it to get the drop on us.

Rumsfeld's commission was charged only with assessing the new threat and not about what we should do to meet the danger.

Nine serious men concluded unanimously that our intelligence agencies, on which we spend $27 billion a year, are egregiously misleading us. Smiling wanly, the Director of Central Intelligence, George Tenet, responded that ''we need to keep challenging our assumptions.''

Wrong; we need to defend ourselves from the likely prospect of surprise nuclear blackmail. A first step is Aegis, a naval theater defense (named after the goatskin shield of Zeus). But that requires this President to redefine a 1972 treaty with the Soviets that he thinks requires us to remain forever naked to all our potential enemies.

The crisis is not likely to occur as Clinton's sands run out. His successor will be the one to pay—in the coin of diplomatic paralysis caused by unconscionable unpreparedness—for this President's failure to heed Team B's timely warning in 1998

[From the Washington Times, July 20, 1998]

EVERY ROGUE HIS MISSILE

The Commission to assess the Ballistic Missile Threat to the United States delivered its findings to Congress last week, and it would take more than nerves of steel not to find the Commission's report spine-chilling. According to the nine-member bipartisan Commission, the United States could be vulnerable to ballistic missile attack from any number of countries within the next five years. Needless to say, it is not the best boys on the block who look to build ballistic missiles; think North Korea, think Iran, and many other aspiring regional players. Swell, just swell.

But almost as chilling as the findings themselves is the fact that they are completely at odds with the National Intelligence Estimate (NIE) produced by the CIA just 3 years ago, a document that blithely predicted that this threat would surely not be a problem until 15 years down the road. (Or at least, not for the 48 contiguous states, leaving Alaska and Hawaii to fend for themselves.) Not only was the CIA estimate too optimistic to be believed, it was also blatantly political in the sense of providing arguments for the Clinton administration's opposition to a national ballistic missile defense.

At the time, an incredulous Republican Congress mandated a new study to be done, a ''Team B'' approach if you will, an alternative analysis. In January, the Commission, under the leadership of former Secretary of Defense Donald Rumsfeld, sat down with the mandate and the access over a six-month period to look at all the CIA's information and studies. Their conclusions were unanimous, and ought to convince any doubters that the urgent need is there to counter the growing threat from abroad before it is too late.

The language of the 30-page unclassified executive summary (the classified report delivered to the intelligence committees of Congress is five times as long) deserves to be quoted to underline the gravity of the situation:

''Concerted efforts by a number of overtly or potentially hostile nations to acquire ballistic missiles with biological or nuclear payloads pose a growing threat to the United States, its deployed forces and its friends and allies. These newer, developing threats in North Korea, Iran and Iraq are in addition to those already posed by Russia and China, nations with which we are not now in conflict but which remain in uncertain transitions. The newer ballistic missile-equipped nations' capabilities will not match those of U.S. systems for accuracy or reliability. However, they would be able to inflict major destruction on the U.S. within about five years of a decision to acquire such a capability (10 years in the case of Iraq). *During several of those years, the U.S. might not be aware that such a decision had been made.*'' (Emphasis added.)

So, will the Rumsfeld Commission change minds in the White House? It should, but don't hold your breath. The Clinton administration is wedded not to real defense but to an unrealistic policy of arms control by international treaties, which often not only are not enforceable, but may exacerbate the problem. Every time a U.S. ambassador delivers a demarche to Russian or Chinese officials over some piece of proliferation business, we signal how American intelligence works—after which information tends to dry up.

Even more problematic is the fact that the administration is forging ahead with the revision of the Anti-Ballistic Missile (ABM) treaty, seeking implementation of this dubious document before the Senate has approved it, as noted by Thomas Moore of the Heritage Foundation on the opposite page. In fact, most of the administration's resistance to missile defense rests on the notion that this would violate the ABM treaty and offend the Russians, one of the four successor nations that inherited ballistic missiles from the Soviet Union, with which the original treaty was concluded in 1972. Touching as such solicitude for Russian sensitivities may be, it hardly takes into account the fact that Russia is one of the primary sources of proliferation when it comes to missile technology—and precisely one of the problems.

Enough is enough. We have in the Rumsfeld Commission report evidence aplenty that we are facing a serious national security threat. To continue to leave Americans vulnerable is unconscionable.

[From the Washington Times, July 20, 1998]

THE BEST DEFENSE IS A MISSILE DEFENSE

(By Thomas Moore)

On July 15 a Congressional commission headed by former Defense Secretary Donald Rumsfeld and composed of some of America's best strategic analysts released its report on the ballistic missile threat to the United States. Contrary to what the Clinton administration would have us believe, the bipartisan Rumsfeld Commission found that a hostile power could deploy long-range missiles capable of striking the United States with little or no warning. The proliferation of missile components or entire systems might equip a rogue regime with strategic missiles before the intelligence community could alert us in time to respond.

Of course, the best response to the development of such weapons is ballistic missile defense, but the Clinton administration has steadfastly opposed it. In 1995, to deflect criticism of its anti-missile defense posture, the administration tasked the intelligence community to answer skewed questions about the missile threat. These questions were clearly designed to produce an assessment favorable to the president's policies. The result was a National Intelligence Estimate (NIE) assessing the missile threat to the U.S. homeland as 15 years in the future—and incidentally, omitting Hawaii and Alaska from consideration. Garbage in, garbage out, as they say. It was this deeply flawed NIE that forced Congress to create the Rumsfeld Commission.

It should come as no surprise that the White House politicized U.S. intelligence in order to justify its neglect in defending the nation. In fact, President Clinton politicizes everything he touches. In the words of William Kristol, he and his minions subordinate all the purposes and instrumentalities of government to their selfish purposes. This is the real significance of the parade of scandals emanating from the White House. Perhaps the American people are willing to tolerate sexual misconduct in high office as long as the Dow Jones index continues to soar. But they cannot afford to tolerate official misconduct that jeopardizes their safety and survival.

Why does the Clinton administration continue to leave Americans defenseless against the world's deadliest weapons? The failure to counter missiles armed with hyperlethal weapons is incomprehensible, since we now have the technology to do the job, and at an affordable cost. But deliberate vulnerability is the administration's preferred policy. It is without precedent in human history—that a great military and economic power, faced with a dire and growing threat, and possessing the means to protect itself, intentionally chooses to remain vulnerable.

The primary obstacle to missile defense is the 1972 Anti-Ballistic Missile (ABM) treaty with the now defunct Soviet Union. This Cold War relic prohibited each treaty partner from deploying a nationwide missile defense and placed other limits on testing and development, crippling the U.S. missile defense program from the very beginning. The fall of the USSR should have eliminated the ABM Treaty as an obstacle to missile defense. Yet arms control and foreign policy elites, clinging to their old dogmas like pagan priests, have kept the U.S. ensnared in the ABM treaty even though our treaty partner and the Cold War conditions that gave rise to it are long gone.

The Heritage Foundation recently commissioned a study by the Washington law firm of Hunton & Williams which concludes that the ABM treaty legally terminated with the end of the USSR and the resulting absence of a bona fide treaty partner. This conclusion is based on the relevant Constitutional law and international law, and has been vetted by the nation's top legal scholars.

However, the Clinton administration is no wedded to the ABM treaty that it is attempting to solve the problem of no legally valid successor by creating a new ABM treaty. An agreement signed last year in New York would convert the now defunct ABM treaty into a new, multi-lateral agreement with Russia, Ukraine, Belarus and Kazahstan. The administration's new ABM agreement would impose new restrictions on the most promising theater missile defenses as well.

Article II, Section 2 of the U.S. Constitution and other laws require that this new ABM treaty come before the Senate for its advice and consent. But the Clinton administration is quietly implementing it without the Senate's approval. This is official misconduct writ large. If allowed to get away with this breach of the Constitution and statute law, the White House would lock us into vulnerability to ballistic missiles for the foreseeable future. As in the suborning of U.S. intelligence, the White House shows a fundamental contempt for the legal and moral norms which have protected our liberty and security for 200 years and made our system of self-government the envy of the world.

Those who care about America's security and the rule of law must work to make sure

the administration does not succeed in implementing the sweeping new restrictions of the New York accords as a mere executive agreement. Defense Secretary William Cohen has already issued guidance to the Pentagon for compliance with the New York ''demarcation'' agreements on theater missile defenses, systems which were not even covered in the original ABM Treaty. The body which implements the ABM Treaty, the Standing Consultative Commission (SCC), will meet again in Geneva in September. Unless blocked by Congress, that meeting will approve a periodic five-year renewal of the 1972 ABM Treaty and take further steps to harden the New York ABM agreement into a fait accompli. Compounding the offense, the American delegation of the SCC is led by a man who has never received Senate confirmation.

Congress must insist that the White House stop the illegal implementation of the New York ABM agreement and submit it for the Senate's advice and consent in a timely fashion, using all the tools at its disposal if necessary. For example, Congress should amend the relevant appropriations bill to prohibit any funds for ABM treaty-related activities of the SCC until the Senate has had the chance to approve the new ABM package. The Senate can take legislative ''hostages,'' denying confirmation to administration appointees until the White House keeps its promise to submit the new agreements.

The unprecedented refusal of a U.S. president to perform the most important functions of his office—provide for the common defense and uphold the law—confronts the American people with a stark moral and political dilemma. If we are to have no say through our representatives in Congress over policies that put our lives in jeopardy, can we claim any longer to be self-governing citizens of a constitutional republic? The Rumsfeld Commission has sounded a clear warning about the threat of ballistic missiles. But this warning tell us something else—we can no longer cling to the illusion that the character of our leaders doesn't count. If our leaders won't fulfill their most important moral and political responsibilities, then we the people must held them accountable. The ancient Greeks believed that a man's character is his fate. The same may be said of nations.

POLITICAL VOTE AND A POLITICAL DEBATE ON A WOMAN'S RIGHT TO CHOOSE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. STARK. Mr. Speaker, I rise today to oppose the vote to override the President's veto of legislation passed by this Congress to criminalize a specific abortion procedure used in catastrophic pregnancies. Make no mistake about it, this is a political vote and a political debate—a debate fraught with inflammatory rhetoric and distorted facts.

The fact is, there is no medical procedure called a ''partial birth abortion''—that's a name made up by opponents of choice to distort the issue. What we're talking about is a procedure used in late term catastrophic pregnancies, when the fetus has a horrible abnormality, or the pregnancy seriously threatens the mother's life or health.

The vote to override the President's veto of this bill is a blatant attempt to shelter the hypocrisy of the abortion debate—that the strongest opponents of the right to choose also oppose programs promoting comprehensive sex education and birth control, which actually reduce unintended pregnancies. Instead, anti-choice Members of Congress would make access to family planning options more difficult, more dangerous, more expensive, and more humiliating. A vote to override the President's veto would threaten doctors with fines and imprisonment, and prevents not one teen pregnancy.

Doctors, not politicians, must decide what medical treatments are the best for these patients. Doctors use this procedure when they believe it is the safest way to end a pregnancy and leave the woman with the best chance to have a healthy baby in the future. Congress should not second-guess their medical judgment.

I ask my colleagues in the majority, who often express their disdain at the federal government's involvement in their personal lives, to oppose the veto override. It doesn't get more personal than this.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

SPEECH OF

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Ms. HARMAN. Mr. Speaker, as an original cosponsor of H.R. 1689, this day has been a long time coming.

I first want to commend the chairmen and ranking members of the relevant committees, as well as my friend and colleague, ANNA ESHOO, for their leadership.

Mr. Speaker, in 1995, Congress enacted, over the President's veto, the Securities Litigation Reform Act. This act limits the opportunities to bring abusive and frivolous class action suits—suits which divert precious financial resources from leading-edge high technology companies. The act continues protections for investors against genuine fraud, as it should, but protects forward-looking statements made by companies issuing nationally-traded securities from strike suits.

With ''strike'' suits in Federal courts less likely to succeed, a new venue has been increasingly used—State courts. Such suits potentially have the same chilling effect as those previously brought in Federal court—until today.

The measure before us, the Securities Litigation Uniform Standards Act, sets forth clear and uniform standards for bringing securities class actions under State law and would generally proscribe bringing a private class action suit involving 50 or more parties except in Federal court.

Mr. Speaker, enactment of this measure should complete an important reform initiated in 1995. Securities litigation needed reform. The future of our Nation's competitive advantage in the world lies in our ability to develop products and services that are on the leading edge of technology and research. The business ventures which undertake such activities are among the fastest growing sectors of our economy. Indeed, in many places in our country, including California's 36th District, they are the pride of our economy.

But if these business ventures are saddled by the costs and distractions of unwarranted lawsuits, filed when stock prices fluctuate for reasons often beyond the control of business management, the consequences are to chill economic growth. Despite the absence of wrongdoing by managers, corporations are essentially forced to pay large sums to avoid even larger expenses associated with their legal defense. The ultimate loser, of course, is the individual long-term investor whose share value was diminished as a result of these suits.

Mr. Speaker, let me assure my colleagues that the reform measure before us continues to protect investors. It recognizes the important role the private litigation system has played in maintaining the integrity of our capital markets. Yet, at the same time, the bill recognizes that forum shopping cannot be a new pathway for enterprising parties to gain new profits. The rights of the aggrieved investor to seek justice and restitution is maintained, while the opportunity to manipulate procedures to the detriment of the company and legitimate investors is hopefully ended.

The Securities Litigation Uniform Standards Act is supported by the Securities and Exchange Commission and the administration and I urge its support.

THE GROWING U.S. TRADE DEFICIT WITH CHINA AND JAPAN

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. LIPINSKI. Mr. Speaker, I rise today to speak about our rapidly growing trade deficit with China and Japan and to strongly urge the Administration to take stronger measures to lower foreign trade barriers to American goods and services.

China and Japan are this nation's largest deficit trading partners. In 1997, our respective trade deficits with China and Japan were $53 billion and $58.6 billion. That's a combined deficit of over $110 billion. Needless to say, but nevertheless an important issue to emphasize, the massive trade deficits with Japan and China costs us billions of dollars of exports and tens of thousands—even hundreds of thousands of jobs.

The Administration bears a large part of the blame by deferring to our deficit trading partners during negotiations instead of being more aggressive in promoting fair trade agreements that advance the interests of American workers. It's not as if the Administration does not have the tools to force foreign nations to open up their markets. They do. Section 301 of the Trade Act of 1974 comes to mind. It just seems to me that they lack the will and initiative. Do they even care about the great American middle class, or are they just pandering for political posturing?

I strongly believe with all of my heart that the Administration can do more to open up foreign markets, especially with our largest deficit trading partners: China and Japan. Section 301 is a powerful tool in our arsenal. Congress gave it to the executive branch, but this Administration has been extremely reluctant to

use it. Since this Administration came into office in 1992, not once has a Section 301 investigation been initiated against China despite the overwhelming evidence of massive trade barriers to American products.

Back in 1991, the Bush Administration initiated a Section 301 case against China. We pushed, and China blinked. Since then, however, China has consistently failed to follow through with their obligations outlined in the agreement. It's time to pull out Section 301 again, because American jobs and American working families are at stake here. It's time to stop talking about the problem and time to start doing something about the problem.

PERSONAL EXPLANATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. CONYERS. Mr. Speaker, yesterday evening I was at the White House and missed three Roll Call votes.

On rollcall vote No. 330, I was unavoidably detained. Had I been present, I would have voted ''no,'' and I ask unanimous consent that this statement be placed in the appropriate portion of the RECORD.

On rollcall vote No. 333, I was unavoidably detained. Had I been present, I would have voted ''present,'' and I ask unanimous consent that this statement be placed in the appropriate portion of the RECORD.

On rollcall vote No. 334, I was unavoidable detained. Had I been present, I would have voted ''aye.''

TRIBUTE TO MINISTER O'LANDA DRAPER

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1998

Mr. FORD. Mr. Speaker. I rise today to honor the memory of international—acclaimed gospel music recording artist Minister O'landa Draper, whose recent death at the age of thirty-four has marked a tragic loss for the city of Memphis, Tennessee, the music industry, and humankind.

The growth and evolution of this twentieth century psalmist has its roots in the richest tradition of Memphis music. O'landa Draper's phenomenal musical talents were recognized by his mother, Marie Draper, and others early in his childhood. In order to prepare for what he knew to be his calling in life, O'landa studies at Overton Performing Arts High under the director of his mentor, Ms. Lula Hedgemon. It was here that he first directed and led a choir, a skill which he continued to develop at the University of Memphis, directing the University's Gospel Choir. At the age of twenty-two with these experiences, O'landa set out on his own and formed a twelve member gospel choir known as ''O'landa Draper and the Associates.''

From that point, O'landa Draper's reputation as an innovative arranger, composer, and musician catapulted him into the heights of the gospel music industry. Most notably, his demonstrative, energetic method of choir direction became a signature style which changed the face of the musical genre of contemporary Gospel.

''O'landa Draper and the Associates'' played a significant role in the development of a creative revival of the gospel music industry. The heightened exposure and renewed appeal of gospel music attracted a new generation of fans. Minister Draper was a five-time Grammy nominee and a Dove, Vision, and Stellar award winner. A member of he Board of Governors for the National Academy of Recording Arts and Sciences, Minister Draper performed for Presidents Carter, Bush, and Clinton, and for the 1994 Grammy Awards show. Some of the most esteemed members of the gospel and secular music industries recorded and performed with Minister Draper because of his dynamism, excellence and creativity. With only six albums to their credit, ''O'landa Draper and the Associates'' has already set an international standard for gospel music choirs.

O'landa's is a message of love, that defined the invigorating life of this ordained Church of God in Christ minister. His efforts to reach out to the distressed communities of this nation were evidenced by his support for AIDS victims and teenage mothers. His humanitarianism shown brightly with his established scholarship fund and financial support of homeless shelters. His love of God illuminated the lives of many as he shared the beautiful precepts of faith and hope through the wondrous gift of song.

His voice has now joined the heavenly choir to sing before the throne of our God forever, in that place where trouble shall cease and joy shall have no end.

For his life and magnanimous contributions to the community, Mr. Speaker, I would ask you and my colleagues in the U.S. House of Representatives to join with me in honoring the memory of this champion of God's crusade Minister O'landa Draper.

INTRODUCTION OF THE ENDANGERED SPECIES CONSOLIDATION ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing the Endangered Species Consolidation Act which is a very simple, good government bill. This bill will reduce the number of federal agencies with direct responsibility for implementing and enforcing the Endangered Species Act.

The Endangered Species Act was originally enacted in 1973 to provide a federal program to insure that our plant and wildlife resources were protected from extinction. The Endangered Species Act or ESA as it is more commonly called, divides responsibility for its implementation and enforcement between two different federal agencies in two separate federal Departments. The Fish and Wildlife Service within the Department of the Interior is the primary federal agency with responsibility for enforcing the law. The 1997 budget for direct endangered species enforcement within the Fish and Wildlife Service is approximately $80 million. The Fish and Wildlife Service is responsible for listing and developing rules to protect all land based endangered or threatened species and all fresh water fish.

The National Marine Fisheries Service (NMFS), a division of the National Oceanic and Atmospheric Administration (NOAA) within the Department of Commerce has responsibility to implement and enforce the Endangered Species Act when it involves fish in the oceans or which migrate to the oceans, as well as marine mammals and sea turtles. Their annual buget is approximately $20 million.

The Fish and Wildlife Service has approximately 800 employees assigned to protect endangered species, while the National Marine Fisheries Service has approximately 270 employees assigned to protect endangered species.

With the listing of various species of salmon which can migrate hundreds of miles inland to spawn, the jurisdictional reach of the National Marine Fisheries Service now overlaps that of the Fish and Wildlife Service. Many companies and individuals are being required to obtain permits for land based activities from both the Fish and Wildlife Service and the National Marine Fisheries Service for the same activities because of the presence of species that are under the regulation of both agencies. In addition, federal agencies that impact endangered species must conduct consultations with both the Fish and Wildlife Service and the National Marine Fisheries Service in many cases. For example, a timber company in Washington with land adjacent to a stream where salmon migrate and with spotted owl habitat will have to obtain a permit from both agencies to conduct its business.

Having two agencies with overlapping responsibility is a waste of taxpayer funding and takes away resources that can be spent directly on species recovery.

This bill would simply transfer authority for enforcement of the Endangered Species Act to the Fish and Wildlife Service. The National Marine Fisheries Service would continue to regulate all other fishing activities and fisheries management, as well as continuing to protect all marine mammals.

Under the ESA, all federal agencies are required to use their resources and authorities to protect endangered species. Whenever the actions of any federal agencies are likely to impact an endangered speices, that federal agency is required to enter into a consultation with the federal agency that has primary responsibility for endangered species—The Fish and Wildlife Service, except when the species is one under the jurisdiction of the National Marine Fisheries Service. In that case, the agency must consult with NMFS. This duplication of effort and overlapping of responsibility has become very burdensome, expensive, and time consuming, not just for private citizens but for federal agencies as well.

It is time for us to consolidate the ESA functions of these two agencies into one primary agency. This means that when the NMFS will conduct an activity that affects an endangered species, such as issuing fishing permits, it will also be required to consult with the Fish and Wildlife Service, to insure that its activities do not harm those species.

This bill will save time and money for everyone involved in protecting endangered species and most of all will give the taxpayers the most and best conservation for our taxpayer dollars.

H. CON. RESOLUTION ON UGANDA

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. BERMAN. Mr. Speaker, today, I join my colleague Mr. Payne in submitting this resolution condemning the forced abduction of children by the rebel Lord's Resistance Army (LRA) in Northern Uganda. The LRA, a bizarre Christian group supported by the fundamentalist Islamic government in Sudan, has kidnapped some 10,000 Ugandan children and forced them to fight as insurgents. Some of these children are as young as eight years old.

Captive children raid and loot villages and serve in the front lines against the Ugandan army. They are also forced to help kill other abducted children who try to escape. Young teenage girls suffer the additional horror of serving as ''wives'' to ranking rebel soldiers. If they resist, they are beaten, sometimes severely. Girls may be given to several men in the course of a year.

I am heartened that the children's plight is getting more international attention. In March, the U.N. Commission on Human Rights condemned ''in the strongest terms'' the abduction of children in Northern Uganda, and the First Lady addressed the issue in a speech while visiting the country. Much more needs to be done, however.

This resolution condemns the abduction of children by the LRA in northern Uganda and calls for the immediate release of all LRA child captives. It urges the recently-appointed U.N. Special Representative on Children and Armed Conflict to aggressively address the situation, and encourages the U.N. Committee on the Rights of the Child to investigate. The resolution also calls on the Al-Bashir Government in Sudan to stop supporting the LRA and asks President Clinton to provide more support to U.N. agencies and non-governmental organizations working to rehabilitate and reintegrate former child soldiers into society.

I am proud to be an original cosponsor of this important legislation and I urge all my colleagues to support it. Let us help end the nightmare for children in Northern Uganda.

PERSONAL EXPLANATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mrs. MALONEY of New York. Mr. Speaker, on Monday, July 20, I was unavoidably detained and missed rollcall votes 297–306. Had I been present, I would have voted ''yes'' on rollcall votes 297, 298, 299, 300 and 301, ''no'' on rollcall vote 302, ''yes'' on rollcall votes 303, 304, and 305, and ''no'' on rollcall vote 306. Please place this in the appropriate place in the RECORD.

MR. STARR: WAIVE REPORTERS' PRIVILEGE OF SILENCE AND ALLOW THEM TO TELL WHAT THEY KNOW

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. CONYERS. Mr. Speaker, Independent Counsel Kenneth Starr is now the subject of multiple investigations of whether he and his staff illegally leaked confidential information to the media. Those investigations include a contempt hearing to be held by Chief Judge Norma Holloway Johnson of the federal court in Washington, and inquiries by the Office of Professional Responsibility of the Justice Department, and the D.C. Bar Counsel. In addition, the Independent Counsel is supposed to be investigating himself.

Mr. Starr has already admitted that he and his chief deputy, Mr. Jackie Bennett, routinely talk to the media on an off-the-record basis regarding their investigation of the President. The Independent Counsel claims, however, that his discussions were legal because the rule of grand jury secrecy does not reach information until it is presented to a grand jury. That argument, in my view, is incorrect.

An important question in these leak investigations will be exactly what was said during meetings between the prosecutors and reporters. In order to have a full and complete record of what went on during those sessions, the Independent Counsel should publicly release the reporters from their vows of silence. After all, is it fair for the Independent Counsel to share confidential information with reporters, and then force them to cover-up possible misdeeds?

I fully respect a reporter's First Amendment right not to reveal a source. But the Independent Counsel can relieve the reporters from having to make a difficult decision to stand mute. Given the significance of issues involving the investigation of the President, Mr. Starr should allow the court and public to know what his media contacts have to say on this subject.

On more than one occasion, the Independent Counsel has called on the President to urge others to waive privileges and testify. The first was when he wrote to the White House Counsel, Mr. Ruff, asking that the President tell Susan McDougal to waive her Fifth Amendment rights and testify before the White water grand jury. Mr. Starr did that even though Ms. McDougal had her own lawyer to advise her, and publicly said that she would not listen to what the President said. In addition, the spokesman for the Independent Counsel, Mr. Bakaly, criticized the President for refusing to urge Ms. McDougal to give up her rights.

A second instance involved the Secret Service. In April of this year, after the Secret Service argued that its agents could not be compelled to testify about the President, Mr. Starr requested that the President waive any Secret Service privilege and order the agents to appear before the grand jury. Mr. Starr made that request even though the privilege was asserted by the Secret Service and not the President, and the Secret Service's director, Mr. Merletti, considered the matter to be one of great national significance.

The President was right when he refused the Independent Counsel's ill-considered requests. But I cannot see any public interest in Mr. Starr's refusal to waive the privilege that requires his media contacts to remain silent in the face of these leak investigations. The Independent Counsel has made clear that he views the invocation of privileges as a roadblock to the truth. How, in good conscience, can he take a different position simply because he has now become the focus of the investigation?

STATEMENT FROM SOME VERMONT HIGH SCHOOL STUDENTS

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. SANDERS. Mr. Speaker, I would like to have printed in the RECORD this statement by a high school student from my home state of Vermont, who was speaking at my recent town meeting on issues facing young people today. I insert this statement in the CONGRESSIONAL RECORD as I believe that the views of this young person will benefit my colleagues:

STATEMENT BY ERIK KENYON, MEGAN WILLEY, KELLY COOK AND JUSTIN STURGES REGARDING GAY-STRAIGHT ALLIANCE

ERIK KENYON: Thank you.

United Nations here from the Bellows Free Academy Gay-Straight Alliance. You have already heard about gay-straight alliances, so we are just going to tell you a bit today about the way our school works.

Like most places in Vermont, St. Albans—over that way—is fairly isolated. For the first two years of high school, I just didn't date anyone. It was something I had no real urge to do. I never thought, well, maybe I'm gay, because the word never came up at all, until I went off to the Vermont Youth Orchestra—which is really cool—I have to get a plug in here; we have a concert tomorrow by the way—which is where I met my first gay person, and that United Nations. ''That makes sense. Why didn't I think of that?'' This is how isolated St. Albans really is. And St. Albans is actually a big progressive for the State of Vermont, if that tells you anything.

And so, at the beginning of the year, some students got together, and we wanted to start something, and the gay-straight alliance is what we decided on, and here is Justin to tell you about that.

JUSTIN STURGES: When we began, it was a new thing, you know, no one had even thought about GSAs, and so we were met with a certain degree of resistance. There is a story that goes along with this. When we first went into our headmaster's office, there were three of us, Erik, myself and another guy, who couldn't be here. He asked us, Well, how many of you people are there? And that, right there, set the mood. He has gotten better, and I think that we are the reason, to an extent. It was this sense of newness, this sense of an unchartered area that no one had been to yet, and we broke that.

And we have been met with certain degree of resistance from several people, from people in the school, from outside influences, from adults, from the teachers.

Here is Kelly. Kelly is going to talk about an experience of her's.

KELLY COOK: Hi.

Yeah. I joined GSA about three weeks ago, I think. One time, I was walking up to a coffee house which we put on quite often. And a

lot of people don't accept different people, like they call me a freak at my school. I'm like: Okay, whatever. I am just walking out with a whole bunch of people and suddenly these people come by with a truck and throw stones at me. That is the kind of stuff you have to get rid of.

And a lot of people just don't accept gay, bi, or different people at all, and I will hand it over to Erik.

ERIK KENYON: But we have been making success this year, and when we were starting out, there were some people all for us and supportive, and some people that were really against us. But most of the people were just sort of indifferent, and we won over most of them. And we have been working on the rest of them.

And a lot of the time this sort of change—well, the bills and all the policies help a great deal, but a lot of the times, it is that little things. Like an experience I had just last week, just in the cafeteria, and just bringing my tray up and dumping my garbage and all that, and behind me I could hear a chant of, ''Queer, queer, queer,'' getting louder and louder. It started as a stage whisper, which is hard with microphones. But it was just—it is kind of commonplace.

So I just did my thing, put all my stuff away, and then walked over to the table where it was coming from—it was quite obvious—and just stood there and stared at them. And they were just like: Hi. What? They got really uncomfortable, you know.

So I didn't say a thing, just walked away out in the hall, did something or other. And I was really surprised, the boy at the table that was doing it, came that and apologized to me. He said, you know: ''I'm sorry, I didn't mean it,'' and all that. And I was like: Okay, thanks. And he said, ''No, really, I'm sorry. I was just trying to show off. It was stupid.'' And he shook my hand. That was just, like: Oh, wow. That was change, and this is how a lot of these changes happen.

And a lot of other things have come up through the course of the day, about things that people would like to get put into place. And we can speak for some of those, like the harassment policy, which doesn't get exercised enough. It doesn't get exercised, because it is really difficult to exercise, but through our group, we had have had, I think three people so far who have gone through the process and done the paperwork to file the complaint, and the harassment has stopped.

We also put on a number of coffee houses, just to read poetry and stuff. It is a nice, relaxed atmosphere. It was odd at the first one, we had 100 people, out of a student body of 1,000, so you get that kind of one in ten, ten percent, and that was kind of neat.

We also have a Web page, put together for the GSA in the state, to try to help us network. It is a start, but we could use a lot more.

And, Justin?

JUSTIN STURGES: What we see needs to happen—we are obviously here for a purpose—we see, for the advancement of such things as we have been doing, we find it necessary for teachers to be trained. That is the one thing that has been left out. You know, we have done what we can for the student population, and will continue to try to educate them, to get them to be more open to our organization and anyone who is different from what they may see.

We find it necessary for the teachers to be trained, because they are the source, to an extent, because they are there in the classroom with all the students, because they come into contact with every student in that school. And, sometimes, they let things slip that, perhaps, they shouldn't.

Outright Vermont, right here in Burlington, does do a program, and we have talked to them about it, but there were restrictions in our school because of the amount of assemblies we have had and the amount of inservice time that we have had, and we couldn't get anything off the ground. But support for that is the one thing we are rallying for currently, the one thing we see that needs to happen.

Congressman SANDERS: Thank you very much

STATEMENT BY CHRISTIE NOLD REGARDING CHILD LABOR

CHRISTIE NOLD: My name is Christie Nold. I am an eighth grade student at Shelburne Community School.

For the past several weeks, I have been researching the topic of child labor in the U.S. and throughout the world. This is a brief summary of my findings.

The problem: Around the world, there are 250 million underaged children in the work force. There are nearly 300,000 underaged workers in the United States. Working conditions include: Wages as low as $1.50 per day; sexual abuse; physical punishment; exposure to dangerous chemicals; and children chained to their machines.

Companies that utilize child labor include: GAP, Nike, J.C. Penny, Esprit, Disney and many others. For example, workers are paid 6 cents to produce a 101 Dalmations outfit that is sold in the U.S. for $20.

Progress in the fight against child labor: As awareness of this problem that has grown, there has been progress in the fight to end child labor. My research has uncovered that our own congressman, Congressman Sanders, has been the leading spokesman in the U.S. Congress against child labor, and specifically against Nike. His efforts are producing results. As recently as Tuesday May 12, Phillip Knight, the CEO of Nike, announced the following changes in his companies practices: They will raise the minimum age of its workers to 16 at its clothing factor, and 18 at its shoe factories; they will adopt U.S. standards or fresh air inside their factories; they will ask individual foundations and rights groups to monitor Nike plants worldwide; they will begin having on-site education programs at their factories.

Congratulations, Congressman Sanders. Your efforts are paying off.

There is still much work to be done, as the ultimate goal is to bring jobs back to the U.S. and pay American workers a living wage. The Foul Ball Campaign is another area where progress has been made. For years, the vast majority of soccer balls were made and stitched in Pakistan using child labor. FIFA, the governing body of soccer, has determined that it will not put its stamps on soccer balls made by child labor.

The Rugmark campaign has also made progress. Hand-made oriental rugs are commonly made by children who are chained to their machines and guarded by men with guns. The Rugmark label was created in 1997 to indicate rugs that were made without child labor. Now, when you purchase an Oriental rug, you can look for this label.

In conclusion, child labor continues to be one of the worst social and economical problems in the world today. The goal of our generation is to help eliminate this problem by: Becoming aware of companies that utilize child labor and take our business elsewhere; let the leaders of these companies know that we have a lot of consumer power, and will not purchase their products; support those who are leading the fight against child labor.

Thank you.

Congressman SANDERS: That was an excellently written and presented paper. That was really good.

STATEMENT BY AMANDA BEAN, REBECCA WEST, NOEL BAKER, JESSICA DAILEY, SARAH MCDONOUGH, NIKKI ERNO, LOUISE MARTINEK, STACEY ZAK, JODY JERNIGAN AND CELINA COGLAN REGARDING TEEN PREGNANCY/WELFARE REFORM

JESSICA DAILEY. Jessica.

I would like to speak about teens and the resources that we seem to be lacking. We found that there are very few resources for teens either who are pregnant, or who aren't but need help. There is the Lund Family Center, which is pretty much the only one of its kind in the area. And we need more help. There is really nowhere for us to go.

There is also a problem with people who aren't pregnant. They have no really good teen pregnancy prevention programs out there for people at high risk, and we feel there needs to be put more of an emphasis on prevention and giving education for that.

Congressman SANDERS. Other thoughts? We would like to hear from as many folks as possible. Please don't be shy. Who else? Just pass the mike along.

JESSICA DAILEY. Nikki wanted me to say something for her.

Congressman SANDERS. Sure.

JESSICA DAILEY. Also, the program called Spectrum for people who have had children who are in SRS custody who are over the age of 16. However, there are no programs like that for people under 16, and a lot of people are falling through the cracks. There needs to be programs out there for people who are under 16 who are in SRS custody towed.

AMANDA BEAN. I know I am in SRS custody, and I have a daughter. I am not 16, and therefore I can't go into the Spectrum program because of that fact, and I have been living at the Lund Family Center for a very long time. And there are no programs for me except Lund, which, to me, feels like I am staying there a long time, when other girls could be coming into my spot, which could be helping them, when I have already been helped, but, yet, I am not old enough to go into that program that they have.

NOEL BAKER. I think that the schools really need to support our decision. In my case, school told me to get my GED or my adult diploma, and I am not old enough to do that. And I really wanted to get my education and everything, and Lund is the only resource out there that I could go to get my schooling and to parent my son. I really do think that the support of school would really help us right now.

JODY JERNIGAN. My name is Jody, and I'm 14. And I just wanted to say, make the point really clear that there is not much out there for teens, and pregnant teens. Lund has been really helpful, but we need more out there. We need things for teens to do so they are not getting pregnant, and also things for teens to do that are pregnant or that do have children, because there is nothing out there.

LOUISE MARTINEK. I just wanted to say that I think day cares need to be given more money. Day care workers are like making nothing and our day care has no money to do anything.

JESSICA DAILEY. About day care, I am unable to have my child in the day care center at Lund because there aren't enough spots open. It was unreal trying to find a day care that would take subsidy. And even when they did, I am still having to pay extra, and it is very, very difficult. And a lot of the day cares that will accept full subsidy, workers are being paid so low that you are not really getting quality with your child care.

I think that something needs to be done about that, because, I mean, it is pretty bad when you walk into a day care and you have a bunch of kids, hardly any day care workers, and they are not paying attention to

them. I have run into them a couple of times.

Congressman SANDERS. Other comments?

AMANDA BEAN. I was wondering about longer hours of day care, like not longer days, but being open longer. Most day cares are 5:00 or 6:00, and what about people who work until 9:00 or 10:00 at night and have to pay someone extra, and weekend day cares. I work on the weekends, and I have to pay somebody unreal amounts of money to babysit my kid, and there goes most of my money.

Congressman SANDERS. The issue that we are talking about obviously is a very personal and difficult issue. I very much applaud you all for coming up, and I thank you for doing that.

HONORING SGT. JOHN PETERSON

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mrs. ROUKEMA. Mr. Speaker, I rise to call attention of my Colleagues to a tragedy in my Congressional District earlier this month. Sgt. John Peterson, a loyal and dedicated Alpine, New Jersey, police officer was critically injured on the job. His case has brought an outpouring of sympathy from our community.

Sgt. Peterson was directing traffic around a Bell Atlantic cable-stringing crew on Hillside Avenue in Alpine about 1:30 p.m. July 2 when he was struck by a car. The car turned from Church Street onto Hillside, then increased in speed while ignoring Sgt. Peterson's orders to stop. The sergeant finally attempted to jump out of the way but was struck by the car and suffered broken bones in his nose, pelvis, chest and shoulders, among other injuries. He was flown by helicopter to Hackensack University Medical Center, where he was listed in critical but stable condition at last report. A 71-year-old Cresskill woman has been changed with failing to comply with the directions of a police officer.

Sgt. Peterson has patrolled the streets of Alpine for more than 25 years, becoming well-known among the residents of the affluent Bergen County borough. He, his wife, Marie, two adolescent children and one grandchild live in nearby Emerson. The couple also have two adult children. When word of the accident and severe injuries spread, the community was shocked. As a result, Alpine residents Ed and Sally Desser have begun a fund-raising campaign to help Sgt. Peterson and his family pay for medical expenses. A fundraising barbecue will be held at the Desser's home this weekend.

Mr. Speaker, we all know that police officers are among the most valued members of our communities. They work nights, weekends and holidays to protect us, our families and our property. Their work is hard and their pay modest. And every day they know they may be called on to put their lives on the line. Officers' spouses and children pray each day that they will return home from work safely—not a worry most of us have to face. In a small and relatively crime-free community such as Alpine, those worries seldom turn into real-life tragedy. But this terrible accident reminds us of the dangers a police officer faces every moment of every day—whether chasing drug dealers through a crime-ridden corner of a major city or directing traffic in a peaceful suburb.

I ask all the Members of the House to join me in offering their gratitude to the hard work and dedication of officers like Sgt. Peterson across our nation. Let us strive to keep Sgt. Peterson and his family in our thoughts and prayers.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. BECERRA. Mr. Speaker, on July 15, I was unavoidably detained during roll call vote number 282, on final passage of H.R. 3267, a bill concerning the Salton Sea. Had I been present for the vote, I would have voted ''no''.

EXPRESSING CONDOLENCES TO THE STATE AND PEOPLE OF FLORIDA FOR LOSSES SUFFERED AS A RESULT OF WILD LAND FIRES

SPEECH OF

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1998

Mrs. MEEK of Florida. Mr. Speaker, I rise in strong support of House Concurrent Resolution 298. The people in the northeast and central regions of the state of Florida have experienced great hardship because of the destruction of nearly 500,000 acres of land and over $276,000,000 dollars in aggregate damages.

I would like to express my heartfelt sympathy to the people who have personally incurred loss, or who had family and friends who sustained losses due to the brush fires that damaged or destroyed nearly four hundred homes and businesses in Florida.

We must also recognize the firefighters, from forty-seven states across this nation who unselfishly worked around the clock in extreme heat to combat these fires.

At the same time, this incident underscores the need to prepare ourselves in advance for future catastrophes. I am hopeful that we can learn from our experiences in this matter and apply our knowledge to prevention.

With the victims and families of this disaster in mind, I strongly urge my colleagues in the U.S. House of Representatives to vote for House Concurrent Resolution 298.

TRIBUTE TO CAROLE PONCHETTI

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Fresno Businesswoman Carole Ponchetti, President and Chief Executive Officer of J.E. Ethridge Construction Inc., for her efforts and success in the business arena. Carole Ponchetti's climb and dedication to her current position in a traditionally male-dominated field has made her very deserving of this recognition.

Mrs. Ponchetti has clearly demonstrated a drive for success. She attended California State University, Fresno, earning her license as a Class B General Building Contractor. In 1971, Mrs. Ponchetti began her career with Ethridge, working as a secretary in a one-employee office. Steadily climbing the corporate ladder in the mid 1980's, Mrs. Ponchetti was a key figure in the renovations of the Fresno Bee and the Fresno Metropolitan Museum.

Mrs. Ponchetti has served the community in more ways than one. She is currently on the Chamber of Commerce Board of Directors, a board member of the San Joaquin Business Investment Group (a minority interest), and a member of the Fresno Business Council.

Mr. Speaker, it is with great honor that I pay tribute to Carole Ponchetti for her effort with J.E. Ethridge Construction Inc. Her commitment and unfailing dedication serve not only as a model for current heads of business, but also for women who wish to enter and succeed in the business field. I ask my colleagues to join me in wishing Carol Ponchetti many more years of success.

RECOGNIZING LARRY D. HAAB

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to my constituent, Mr. Larry D. Haab, who will be retiring from the Illinova Corporation, a power company in my congressional district. He has honorably served as Chairman, President and Chief Executive Officer, and will resign from the latter post this summer after more than 25 years of service. I wish him all the best during his retirement.

Larry attended Millikin University in my district and earned his bachelor of science degree in 1959. He recognized that commitment to his career and Illinova was essential in the business world. Larry established his career in the early 1970's when he was appointed manager of data processing at Illinova. His superior service to the company resulted in his promotion to vice president two years later, and reelection in the subsequent years until he achieved the presidency in 1989. By 1991, Larry had achieved the offices of Chairman and Chief Executive Officer. Larry recognized the potential of Illinova, and he wanted to expand it into larger and new markets. During his career, he helped in the growth of the corporation from a local utility to a nationwide business to an international operation.

In addition, Larry devotes his energy to serving on dozens of boards and councils with dynamic leadership and integrity. He understands the importance of being involved and committed to the Decatur community. From the Illinois Energy Association and the Millikin University Alumni Board to the Decatur County Economic Development Foundation, Larry has maintained active involvement with business and community issues. He is married to Ann Haab, and has two daughters and a son.

Mr. Speaker, please help me in recognizing Mr. Larry D. Haab for his dedication and commitment to Illinova and his community. As a member of the House Small Business Committee, it is a pleasure to witness businessmen

such as Larry Haab succeed. I wish him the best during his retirement. He has been very successful with Illinova, and it has been a pleasure to represent him in the United States Congress.

EDUCATION FUNDING

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, just yesterday, I met with principals from schools in the 4th Congressional District of Colorado and I would ask my colleagues to consider the issues raised by these education professionals. Congress, they told me, has mounted bureaucratic obstacles which prevent them from putting federal education dollars to use for their students. The paperwork and bureaucratic red-tape associated with federal money are hurdles which prevent dollars from reaching the classroom.

Principal Betsy Dumph from the town of Hudson, Colorado, stated that small schools like hers simply do not have the money to hire professional grant writers to negotiate the extensive federal grant applications and are therefore at a competitive disadvantage to large districts when seeking federal grants. Another principal described how bureaucratic rules often keep her school ineligible for federal grants. The entire group expressed frustration with federal rules concerning special education which restrict them from removing dangerous students.

These principals aren't the only ones who feel this way. Teachers and parents in northern Colorado told the Committee on Education and the Workforce they share the same sentiments. Over 79% of respondents to an education survey in my district support sending the majority of all federal education funds directly to the classroom. Nearly 85% would support efforts to eliminate onerous federal mandates affecting education.

The objective of these Oversight hearings was to produce the Education at a Crossroads report to Congress. Based on witness testimony, the Subcommittee has made four recommendations—send dollars to the classroom not the education bureaucracy, strengthen local control, emphasize basic academics, and promote parental involvement. These suggestions came after two years of investigations and the testimony of 225 witnesses in 15 states including Colorado. The report was adopted by the Subcommittee on the 17th of July.

Before developing these recommendations, the Subcommittee made several observations: There are 760 federal education programs. An average of 48.6 million hours are spent doing paperwork. As little as 65 cents of every federal tax dollar makes it to the classroom. There are over 18,000 federal employees and full-time equivalents administering federal education programs.

There are disturbing national trends that Congress should address. For example, almost half of America's fourth-graders do not read at even a basic level. Half of all students from urban school districts fail to graduate on time, if at all. The average 1996 NAEP scores among 17-year-olds are lower than they were in 1984. American senior high students only outperformed two out of 21 nations in mathematics according to the Third International Mathematics and Science Study. Public higher education institutions spend one billion dollars on remedial education.

The answer to this situation is simple: Listen to educators, parents, and administrators and take their advice. For once, the government needs to support what works and take the suggestions of professionals who are making the grade and making a difference.

Mr. Speaker, the principals I met with, the letters, responses and phone calls I have received have pointed to the same thing. The findings in the Education at a Crossroads report come as no surprise because they simply state what people have been saying for some time—get rid of the red tape and put dollars in the classroom; trust teachers, local administrators and parents to make decisions about policy and budgeting rather than Washington bureaucrats in the Department of Education. It is time we listen.

JULIAN BREECE: ONE OF D.C.'S BRIGHT STARS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Ms. NORTON. Mr. Speaker, I rise today to recognize one of the bright stars of the District of Columbia, Julian O. Breece, Though only seventeen years old, Julian has compiled an exemplary academic record, extensive production and anchoring experience in local and national television, served as a Youth Ambassador to Israel, and participated in the Junior Statesmen summer school program. Now, I am proud to recognize his latest achievement: a $10,000 scholarship in the Arts and Humanities category of the Discover Card Youth Program. Julian joins a select group of only nine award recipients from around the nation, achievers who stand out personally and academically.

Julian Breece, like so many other D.C. students, is a gifted and talented young man. His 4.0 grade point average at Benjamin Banneker Academic Senior High School simply wasn't enough; Julian had to do more. He has worked with the D.C. Public Schools cable station, DC28, for two years, honing his skills as an anchor, writer and producer. Julian is a regular panelist on Black Entertainment Television's Teen Summit show, which airs nationally each week. I am proud that Julian uses his exceptional oratorical and communications skills to serve his community.

Julian's community service endeavors, awards and activities are simply too numerous to list here. From theater troupes to helping the homeless, from foreign affairs programs to science fairs, Julian Breece has made an important contribution to the life the District of Columbia. I have no doubt that he will continue to contribute to this city and this nation as he grows and matures, striving to promote cultural understanding and community awareness. My warmest congratulations to Julian on his latest award, and my regards to his parents, who have raised such a fine son!

ADDITION TO DEBATE ON HOUSE RESOLUTION 392

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. GILMAN. Mr. Speaker, I would like to include the letter of July 16 from Chairman BILL ARCHER and my reply of July 17 as part of the record of the proceedings on House Resolution 392, relating to the role of Japan in solving the economic crisis in Asia, that took place on the House floor on Monday, July 20:

COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, July 17, 1998.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means, House of Representatives.

DEAR BILL: Thank you for your letter about the consideration of H. Res. 392, relating to the role of Japan in solving the economic crisis in Asia.

I very much appreciate your willingness, in view of the urgency of this matter, to forego marking up the resolution in the Committee on Ways and Means.

After consultation with Chairman Bereuter and the minority, I am certainly prepared to bring H. Res. 392 to the floor as ordered reported by the Committee on International Relations on suspension without additional amendment. I also accept the other understandings set out in your letter.

I will be working with the Majority Leader to arrange for early consideration of the Resolution on the suspension calendar.

With best wishes,

Sincerely,

BENJAMIN A. GILMAN,
Chairman.

COMMITTEE ON WAYS AND MEANS,
Washington, DC, July 16, 1998.

Hon. BENJAMIN A. GILMAN,
Chairman, Committee on International Relations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in reference to H. Res. 392, relating to Japan, which was reported to the House by the Committee on International Relations, as amended, on June 25, 1998. The resolution was sequentially referred to the Committee on Ways and Means until July 17, 1998, to address provisions within the Committee's jurisdiction.

On July 15, 1998, the Subcommittee on Trade of the Committee on Ways and Means held a hearing to review U.S.-Japan trade policy. This very productive hearing allowed the Subcommittee to address the necessity for Japanese implementation of broad structural reforms, including deregulation of its economy, reform of its banking system, improved transparency, and the opening of its distribution system to eliminate exclusionary business practices.

Accordingly, in order to expedite consideration of this important legislation, I do not believe that a markup by the Committee on Ways and Means will be necessary on H. Res. 392. However, this is being done only with your assurance that you will bring the resolution, as reported by the Committee on International Relations, to the House for a vote under suspension of the rules, with no additional amendment. In addition, this action by the Committee on Ways and Means with respect to H. Res. 392 is being done with the understanding that it does not in any way prejudice the Committee's jurisdictional prerogative on this measure or any other

similar legislation, and it should not be considered as precedent for consideration of matters of jurisdictional interest to the Committee in the future.

I would appreciate your response to this letter, confirming this understanding with respect to H. Res. 392, and would ask that a copy of our exchange of letters on this matter be included in the record during floor consideration. Thank you for your cooperation and assistance on this matter.

With best personal regards,

BILL ARCHER,
Chairman.

TRIBUTE TO E.B. ''SWEDE'' ANTONELL, JOHN E. BOUDREAU, ROBERT F. BOWMAN, ROBERT L. STANFIELD AND HARVEY WILLIAMS FOR THEIR SERVICE TO THE CENTRAL SAN JOAQUIN VALLEY AGRICULTURAL COMMUNITY

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to E.B. ''Swede'' Antonell, John E. Boudreau, Robert F. Bowman, Robert L. Stanfield and Harvey Williams for their service to the central San Joaquin Valley agricultural community. Each of these gentlemen has distinguished himself as a valued member of the agriculture-water industry.

Mr. E.B. ''Swede'' Antonell was born in Michigan and started his career as a chemist for U.S. Industrial Alcohol after studying chemistry at Stanford University. His service on the Southern San Joaquin Municipal Utility District Board of Directors dates back to the earliest days of water service from the Friant-Kern Canal.

Mr. Antonell came to Kern County in 1938 as a farmer and produce packer. He farmed citrus, potatoes, corn and cantaloupe. He saw that farmers in the Delano and McFarland areas were faced with the pumping of ground water to sustain their agriculture production and were depleting the subterranean water supply. Mr. Antonell decided to actively support the Friant water project, which would enable modern irrigation and use surface water to produce higher yielding crops. Mr. Antonell has been a longtime advocate for agriculture and water in the valley.

Long identified with water industry leadership in Kern County, Mr. Antonell represented the district as a Friant Water Users Authority director since the Authority's formation in October 1985. Beginning in January 1955, Mr. Antonell served as the director of the Delano-McFarland District of the Central Valley Project—Friant Division. Mr. Antonell also served as director of the Western Growers' Association, the California Potato Growers Association, the United Fresh Fruit and Vegetable Association, the Association of California Water Agencies Insurance Commission, and Governor Ronald Reagan's Citizens' Commission for Agriculture. On June 2, his 96th birthday, Mr. Antonell resigned and retired from the Southern San Joaquin Municipal Utility Board of Directors.

John E. Boudreau joined the Terra Bella Irrigation District in 1968. He has managed all administrative, engineering, operational and maintenance duties for the system which delivers water to agricultural and municipal users in this Tulare County community. Recently Mr. Boudreau has overseen a project of over $5 million that includes a municipal and industrial water treatment plant, a million gallon storage tank, pumping facilities and four miles of water lines.

Mr. Boudreau has managed the Friant Power Authority since its inception in 1979 and plans to continue in that role after his retirement from the irrigation district. He also manages the San Joaquin River Water Power Authority and has served on the Tulare County Grand Jury and as Chairman of the Tulare County Flood Control Commission. In Terra Bella, he has served as the past director of the Terra Bella Chamber of Commerce and the American Cancer Society. With the Association of California Water Agencies, he is the past chairman of the Thermal Electric Water Supply Committee and Manager-Engineers Section, as well as a former Executive Board member.

Mr. Boudreau earned his bachelor's degree in mechanical engineering at the University of Santa Clara. He served in the United States Army Reserve for eight years and achieved the rank of captain.

Robert F. Bowman completed six successful years as Chairman of the Board of the Friant Water Users Authority in January. His introduction to farming came 62 years ago when his parents moved to Kern County from Southern California and bought 40 acres near Buttonwillow. Mr. Bowman has farming interests in the Corcoran, Angiola and Tipton areas. His crops have included cotton, alfalfa, wheat, safflower and sugar beets.

Mr. Bowman has served on the Friant Water Users Authority board since 1988 and was vice chairman for two years. His other board service includes the Upper San Joaquin Water and Power Authority, Mid-Valley Water Authority, Central Valley Project Authority, Association of California Water Agencies, Central Valley Project Water Association and California Farm Water Coalition. He also chairs the Friant Water Users Political Action Committee. Mr. Bowman has distinguished himself as a fighter for Friant water and San Joaquin Valley water rights.

Robert Bowman is past chairman of the California Ag Council, which is made up of the state's major agricultural cooperatives. He has also served as director for both the Western Cotton Growers' Association and CalCot. Mr. Bowman is a 1950 graduate of Cal Poly—San Luis Obispo and served in World War II as an U.S. Army infantry lieutenant.

Robert L. Stanfield is retiring from a 35-year career with the Madera Irrigation District where he has been the district manager for the past 23 years. Mr. Stanfield's family has nearly 130 years of history in the Madera area.

After earning a degree in civil engineering from Chico State College, Robert Stanfield began his career working part time for the Madera Irrigation District (M.I.D.). He was then recruited to become an engineer for the district. After rising through the ranks he became M.I.D.'s general manager/chief engineer in 1975. He has also served as the manager of the Chowchilla-Madera Power Authority for M.I.D. and the Chowchilla Water District. A Madera Canal hydroelectric power plant was named in honor of Robert Stanfield in 1986. He has been involved with the Friant Power Authority since its inception and the Upper San Joaquin River Water and Power Authority.

Mr. Stanfield is a Madera County Chamber of Commerce director and San Joaquin River Conservancy board member. He has chaired the Association of California Water Agencies and the Madera City Planning Commission. He also serves on the California Chamber of Commerce Water Resources Committee and the Friant Water Users Authority Advisory Committee.

Harvey Williams served for 26 years in a variety of positions with the U.S. Bureau of Reclamation and has managed the Shafter-Wasco Irrigation District for the last decade. Mr. Williams is from the state of Washington and earned a degree in agricultural engineering from Washington State College. He served two years in the U.S. Army Corps of Engineers in combat engineering.

In 1961, Harvey Williams joined the U.S. Bureau of Reclamation on its Columbia Basin Project in the Operation and Maintenance section of the newly built irrigation systems which brought farming to that region. In 1971, Mr. Williams transferred to Fresno as the Bureau's operations chief in the Friant Division of the Central Valley Project. He was appointed to the district manager's position in the Shafter-Wasco Irrigation District in Kern County on March 1, 1987. During his tenure with Shafter-Wasco, the district developed a major pumping plant and pipeline system that links the several regional water projects. This efficient system has increased and enhanced the overall water supply management and delivery to its customers. As a result, more than 40,000 acre feet of water has been banked in lieu of pumping valuable ground water.

Mr. Williams is a director of the Central Valley Project Water Association and serves on the Friant Water Users Authority Operation and Maintenance Committee. He also serves on the Kern County Water Advisory Committee, the Six District Ground Water Committee and is an associate director of the Pond-Wasco-Shafter Resource Conservation District.

Mr. Speaker, it is a great honor to pay tribute to these five gentlemen. Each of these distinguished citizens has dedicated his life to the agriculture and water industries of the San Joaquin Valley and to his community. I ask my colleagues to join me in congratulating these men for their distinguished service to the San Joaquin Valley.

IN MEMORY OF ALAN SHEPARD

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. ROEMER. Mr. Speaker, I rise to express my deep sorrow on the death of a true American pioneer and hero, Alan B. Shepard, Jr. As a member of the House Committee on Science and as a long-time fan of the Mercury program, I would like to acknowledge Alan Shepard's service and many contributions to the U.S. space program.

Alan Shepard was known for his determination, his wit and his courage. He was one of seven Mercury astronauts named by NASA in

April 1959, and he holds the distinction of being the first American to travel in space. Alan has been characterized as the most eager to be chosen from among three Mercury astronauts who were selected to fly the famous first space flignt—the Freedom 7 mission.

On that historic day, Alan Shepard—and the entire nation—waited anxiously for more than four hours as NASA worked feverishly to correct problems involving the launch vehicle's electrical system, the ground computer and the rocket's fuel pressure. This first flight in space, which lasted 15 minutes (five of those minutes in space) carried him to an altitude of 116 miles. Alan Shepard and the Freedom 7 mission marked the beginning of our journey into space.

Alan Shepard prophetically referred to this first space mission as ''just the first baby step, aimed for bigger and better things.'' The success of Freedom 7 and the bravery of Alan Shepard resulted in tremendous enthusiasm and excitement about the U.S. space program and future prospects of space travel. Less than three weeks after Alan Shepard's flight, President Kennedy set forth the goal of landing on the moon by the end of the decade. Alan Shepard returned to space and was the fifth astronaut to walk on the Moon during the Apollo 14 Mission in February 1971.

Mr. Speaker, I remember the first space flights of the NASA's Mercury program, and I think we will always remember the lasting impression Alan Shepard made on us and on the rest of the world. We are grateful for Alan Shepard's service to our nation, his invaluable contributions to NASA and we will remember him as a shining star in our early spaceflight missions. Our thoughts and prayers are with his family.

RECOGNIZING CECILIA DUNBAR

HON. GLENN POSHARD

OF ILLINOIS

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. POSHARD. Mr. Speaker, my colleague, Mr. COSTELLO, and I rise today to commend Mrs. Cecilia A. Dunbar, a distinguished student and leader in Marion, Illinois. She currently attends John A. Logan College in the 19th congressional district and is spearheading an effort to create a national day of recognition for higher education. We applaud and commend her efforts, and offer our support.

Cecilia has been focusing her energy toward devoting a day of recognition to higher education. She has worked diligently to encourage non-traditional students of four-year and community colleges the importance of education. Cecilia has not only experienced the achievement of receiving a higher education, she has also been an inspiration for many non-traditional students to attend college. After confronting many personal hurdles, Cecilia realized that she needed to exceed her high school level education and go back to school. John A. Logan College recognized her potential and gave her the opportunity to enroll as a student. From being the first John A. Logan student trustee to be reelected to improving student life through various student organizations such as being President of Phi Theta Kappa, Cecilia has proven herself to be an excellent asset to John A. Logan College and the higher education community.

As a result, Cecilia has been pushing for a national day of higher education recognition as a way to thank her colleagues, and her mentors at John A. Logan College as well as stress the importance of higher education to others who face unique circumstances such as herself. Cecilia's proclamation has been recognized by Illinois Governor Jim Edgar, and she is now in the process of having it recognized by additional governors through the National Governors Association. The first day of observance is September 16, 1998 which coincides with John A. Logan's birthday.

Mr. Speaker, it has been an honor to meet this inspiring student, and it is a pleasure to have her recognized for her various achievements. Higher education is essential for our citizens, and having people such as Cecilia recognizing the urgency of this opportunity is refreshing. Please help us in commending Mrs. Cecilia Dunbar for her persistent efforts in recognizing the importance of higher education.

CHILD NUTRITION AND WIC REAUTHORIZATION AMENDMENTS OF 1996

SPEECH OF

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1998

Mrs. ROUKEMA. Mr. Speaker, I am pleased that we are reauthorizing the WIC program here today.

The WIC program is a program that works, and in the longer-term, actually saves federal money. For every one-dollar used in the prenatal segment of the WIC program, Medicaid saves untold monies and gives healthy productive lives to these children and cannot be measured in dollars and cents.

WIC works. It reduces the instances of infant mortality, low birthweight, malnutrition and the myriad other problems of impoverished children. The WIC program also provides valuable health care counseling for expectant mothers for both mothers and children.

Within the past year, Time and Newsweek magazines have written feature articles on the importance of the years from birth to age three. These articles validate long-standing research based on up-to-date studies of prenatal and early childhood development. WIC funding is a big part of the future development of these infants.

We want all of our children to have a good start. Proper nutrition is essential for healthy growth, the ability to learn, and the chance for a future as a productive citizen.

This is a wise investment.

SALUTE TO THE ''FALCONS''

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to recognize the efforts of some very special constituents, the Friends of Arrowhead Lodge and Conservators of Nature Society (the ''FALCONS''). This group of dedicated volunteers worked to save an historic lodge and outbuildings and operated the facility as a successful visitors center on national forest land in the mountains of Colorado for several productive years.

The Arrowhead Lodge, located along the Poudre Canyon in Larimer County, Colorado, has a long and distinguished history. Through the years, church services, 4–H meetings, pancake suppers, dinners, socials and parties echoed from the walls of the Arrowhead Lodge. The Forest Service bought the lodge, but planned to tear down the buildings due to budget constraints several years later. Only the hard work and grass roots efforts of Mrs. Elyse Bliss saved the buildings from destruction. She was instrumental in the designation of the Arrowhead Lodge of the National Register of Historic places and in founding the non-profit FALCONS to see that it continued to play an important role in the local community and the state's booming tourism industry.

Mr. and Mrs. Bliss, in partnership with the Forest Service, operated the lodge for several years. They, along with the other dedicated volunteers, were always there to welcome weary travelers, curious tourists and local passers by with a friendly smile, hot coffee and a wealth of good information. Sadly, management decisions within the Forest Service forced the volunteers to abandon their efforts after years of successful operations.

The loss of the FALCONS is a great loss to the local community and the traveling public. I thank Mr. and Mrs. Bliss for their hard work and dedication and I thank all of the FALCONS for their efforts as well. Their plight has motivated me to investigate how to avoid such troubling consequences in the future. I plan to investigate how to encourage and facilitate, rather than discourage, the efforts of volunteers like the FALCONS. Good volunteer work creates an atmosphere of warmth and friendliness on federal properties. It personalizes visitors' experiences and adds to the wealth and identity of our natural heritage. Moreover, volunteers could save the taxpayers millions of dollars each year. Mr. Speaker, I fully support volunteer activities on federal lands, and again thank the FALCONS for their significant and lasting contribution to the community and to the public. I wish them well and encourage them to explore other ways to continue their good work.

TRIBUTE TO HUBERT H. HUMPHREY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. OBERSTAR. Mr. Speaker, I rise today to pay tribute to former Vice President Hubert H. Humphrey.

Fifty years ago this week, Harry S. Truman was nominated for the Presidential ticket at the Democratic convention in Philadelphia. Another profoundly memorable event occurred at that same convention in 1948; Hubert A. Humphrey, then the Mayor of Minneapolis and candidate for Senate from the State of Minnesota, delivered a speech on civil rights that is remembered today for its eloquence, its vision, and its idealism.

Many events across the country contributed to the advancement of civil rights during the past half century, including Rosa Parks' courageous refusal to sit in the back of the bus, the landmark Civil Rights and Voting Rights Acts, and dramatic acts of civil disobedience in the deep south. But it was Hubert Humphrey's principled challenge at the 1948 Democratic National Convention that catapulted civil rights to the top of the nation's agenda and launched what became a 16-year national dialogue on a race relations and racial injustice, culminating in the passage of the Voting Rights Act of 1965.

Hubert Humphrey's clarion call to conscience on that night 50 years ago rings as fresh and energizing today as it did then, when he challenged convention delegates and the nation to overturn social conventions and traditions that not only deprived a whole segment of the American public their rightful place in our economy and society, but even denied an honest, forthright discussion of race in America.

The galvanizing appeal of then-Mayor Humphrey both inspires and challenges us now today, as it did 50 years ago: ''There are those who say to you—we are rushing this issue of civil rights. I say we are 172 years late. There are those who say—this issue of civil rights is an infringement on states' rights. The time has arrived for the Democratic Party to get out of the shadow of states' rights and walk forthrightly into the bright sunshine of human rights.''

Those words jolted American politics like a lighting strike and stirred the nation's conscience to a national debate on civil rights policy. Although divided, the convention delegates ultimately voted to endorse a new and timely commitment to civil rights. The party's decision to take a strong stand on civil rights inspired citizens throughout the nation and gave new life, purpose and charisma to the civil rights movement.

Last month, the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota recognized the 50th anniversary of its namesake's landmark speech made by Hubert H. Humphrey at the 1948 Democratic Convention in Philadelphia. Journalist Bill Moyers, NAACP Chair Julian Bond, Author Richard Rodriguez, and former Mississippi Governor William Winter spoke on the legacy of the civil rights movement since 1948. I am pleased to share with my colleagues the personal remembrance that journalist Bill Moyers offered at the Institute's forum last month on Hubert Humphrey's influence on civil rights.

When Steve Sandell invited me to the Twin Cities for this occasion, I accepted on the spot.

Hubert Humphrey made a difference to my life. He was the friend who toasted me on my 30th birthday and the mentor who nurtured my political sentiments. Some of you will remember that it was Senator Humphrey who first proposed that young Americans be offered the chance to serve their country abroad in peace and not just in war. Newly arrived in Washington, I read his speeches on the subject and liberally borrowed from them for the speech I helped to write for Senator Lyndon B. Johnson during the campaign of 1960 when, at the University of Nebraska, he proposed what we called ''a youth corps.'' Two weeks later, on the eve on the election, Senator John F. Kennedy called for the creation of the Peace Corps. This, too, was a speech that owed its spiritual lineage to Hubert Humphrey.

After the election I finagled my way on to the Peace Corps Task Force, where it was my privilege to work with Senator Humphrey on the legislation that turned the idea from rhetoric to reality. Somewhat later President Kennedy nominated me to be the Peace Corps' Deputy Director. The nomination ran into trouble on the Senate floor when Senator Frank Lausche of Ohio announced that ''a 28-year-old boy recently out of college'' was being given too much responsibility, too fast, at a salary far too high for someone so green behind the ears. Now, Senator Lausche was probably right about that (although I had informed him during the committee hearings that I was not a mere 28, I was 28 and a half!), but it didn't matter; he was no match for Hubert Humphrey, who rushed to the floor of the Senate not only to defend me but to champion the cause of youth in public service: ''I know this man well,'' Senator Humphrey said of me. ''I have spent countless hours with him on the Peace Corps legislation. He was in my office hour after hour working out the details the period of the hearings on the legislation and the markup on the legislation. If I know any one member of this Government, I know Bill Moyers'' (Some of you who knew Hubert H. Humphrey knew there should have been a fourth ''H'' in his name—for hyperbole. But the hyperbole felt good to those on whom it was showered).

And then . . . Hubert Humphrey took off, his words rocketing across the Senate chamber: ''Did not Pitt, the younger, as a rather young man, prove his competence as Prime Minister of Great Britain? He did not have to be 50, 60, or 65. He was in his twenties. I invite the attention of my colleagues to the fact that most of the great heroes of the Revolutionary War period . . . were in their twenties and early thirties . . . That many great men in history, from Alexander to Napoleon, achieved greatness when they were in their twenties . . . that the average age of the signers of our Declaration of Independent was 36. I do not wish to use any invidious comparisons, but I have seen people who have lived a long time who have not learned a great deal, and I have seen people who have lived only a short time who have learned a very great deal. I think we should judge persons, not by the calendar, but by their caliber, by the mind and heart and proven capacity . . . My good friend from Ohio said that when this nomination comes to the floor of the Senate he will be here to speak against [it]. . . just as surely, I say the Senator from Minnesota will be here to speak in favor of [it].''

He was, and he did. And I have been indebted to him ever since. I wish he knew my grandchildren are growing up in his state, and I wish he could see who is here tonight to commemorate one of the great acts of courage in politics, when the mayor of Minneapolis turned the course of American history.

It was the summer of 1948, July . . . three weeks after the Republicans triumphantly nominated Thomas E. Dewey and began measuring the White House for new drapes. The dispirited Democrats met in Philadelphia resigned to renominating their accidental president, Harry Truman. Truman had surprised many Americans earlier that year when he had demanded Congress pass a strong civil rights package, but now he and his advisers had change their tune. A strong civil rights plank in the party platform, they were convinced, would antagonize the South and destroy Truman's changes to reelection. The spectre of a bitter fight dividing the convention was all the more frightening to the Democrats since for the first time ever television cameras were making their debut on the convention floor and the deliberations would be carried out in broad daylight. So the party leaders decided to back away from a strong civil rights stand and offer instead an innocuous plank not likely to offend the South.

The mayor of Minneapolis disagreed. Hubert Humphrey was 37. After graduating magna cum laude from the University of Minnesota he and his young wife Muriel Buck—''Bucky'', he called her—had gone to Louisiana for Humphrey to earn his master's degree. What they saw there of the ''deplorable daily indignities'' visited upon Southern blacks was significantly responsible for his long commitment to the politics of equal opportunity. He came back to Minneapolis to run for mayor . . . was defeated . . . ran a second time . . . and won. Under his leadership the city council established the country's first enforceable Municipal Fair Employment Practices Commission. He sent 600 volunteers walking door to door, to factories and businesses, schools and churches, to expose discrimination previously ignored. Their report, said Mayor Humphrey, was ''a mirror that might get Minneapolis to look at itself.'' He saw to it that doors opened to blacks, Jews, and Indians. He suspended a policeman for calling a traffic violator ''a dirty jew'' and even established a human relations course for police officers at the University of Minnesota. What Humphrey preached about civil rights, he practiced. And what he practiced, he preached.

So he arrived at the Democratic Convention in Philadelphia fifty years ago with convictions born of experience. As a charismatic and articulate spokesman for the liberal wing of the party he was named to the platform committee, and when after a ferocious debate that very committee voted down a strong civil rights plank in favor of the weaker one supported by the White House, Humphrey agonized over what to do. Should he defy the party and carry the fight to a showdown on the convention floor? The pillars of his own party said no. ''Who does this pip-squeak think he is?'' asked one powerful Democrat. President Truman referred to him as one of those ''crackpots'' who couldn't possibly understand what would happen if the south left the party. It was a thorny dilemma.[1] If Humphrey forced the convention to amend the platform in favor of a stronger civil rights plank, the delegates might refuse, not only setting back the fledgling civil rights movement but making a laughing stock of Hubert Humphrey and spoiling his own race for the Senate later that same year. On the other hand, if he took the fight to the floor and won, the southern delegates might walk out and cost Harry Truman the Presidency.

As he wrote in his memoir: ''In retrospect, the decision should have been easy. The plank was morally right and politically right. . . . [But] clearly, it would have grave repercussions on our lives; it could make me an outcast to many people; and it could even end my chances for a life of public service. I didn't want to split the party; I didn't want to ruin my career, to go from mayor to 'pip-squeak' to oblivion. But I did want to make the case for a clear-cut commitment to a strong civil rights program.''

Years later he recalled the dilemma in a conversation with an old friend, who said to him, ''That sounds like the politics of a nunnery—you'd rather have been right than been president.'' ''Not at all,'' Humphrey shot

[1] My own recollections were rekindled by three books I highly recommend: Carl Solberg's biography of Humphrey; Robert Mann's ''The Walls of Jericho'' and Hubert Humphrey's own memoir, ''The Education of a Public Man.'' I am indebted to them and to my colleague, Andie Tucher, for their contributions to this speech.

back. ''I'd rather be right and be president.'' Which might explain in part, said the friend, why he never was.

It sounds like so little now. Here's exactly what the plank said: ''We call upon Congress to support our President in guaranteeing these basic and fundamental rights: (1) the right of full and equal political participation; (2) the right to equal opportunity of employment; (3) the right of security of person; and (4) the right of equal treatment in the service and defense of our nation.''

It sounds like so little. All people, no matter what their skin color, he was saying, had the same right to vote, to work, to live safe from harm, to serve their country. But it's hard to remember now, half a century later, how radical those 50 words really were. In 1948 the South was still a different country. Below the Mason and Dixon line—or, as some blacks called it, the Smith and Wesson line—segregation of the races was rigorously upheld by law and custom, vigorously protected by violence if necessary. To most whites, this system was their ''traditional way of life,'' and they defended it with a holy fervor. To most blacks, ''tradition'' meant terror, oppression, humiliation, and, sometimes, death.

Take a minute to revisit with me what life was like for black Americans in the late nineteen-forties, when Hubert Humphrey was facing the choice between dishonoring his conscience and becoming a pipsqueak. Every day, all over America but particularly in the South, black people were living lives of quiet desperation. The evidence was everywhere.

You see it in the numbers, the raw measurements of the quality of life for black people. Flip open the Census Bureau's volumes of historical statistics and look under any category for 1948 or thereabouts. Health, for instance. Black people died on average six or seven years earlier than whites. Nearly twice as many black babies as white babies died in their first year. And more than three times as many black mothers as white mothers died in childbirth.

Or take education. Young white adults had completed a median of just over twelve years of school, while blacks their age had not gotten much past eighth grade. Among black people seventy-five or older—those who had been born during or just after slavery times—fewer than half of them had even finished fourth grade.

Look at the standard of living. The median family income for whites was $3310, for blacks just over half that. Sixty percent of white agricultural workers were full owners of their farms and about a quarter were tenants, while for blacks, the numbers were almost exactly opposite; only a quarter of blacks owned their own farms, and 70% were tenants. You could go on and on.

You see it throughout the popular culture, full of cartoony creatures like Stepin Fetchit, Amos 'n' Andy, and Buckwheat, but you could look till your eyes ached for a single strong, admirable, human black character in a mainstream book or movie. There's a scene in one of the most beloved movies ever made, Casablanca, in which Bogart's lost love, the beautiful Ingrid Bergman, walks into Rick's Cafe and says to Claude Rains ''The boy who's playing the piano—somewhere I've seen him . . .'' She's referring, of course, to Dooley Wilson, who at nearly fifty was almost twice Bergman's age . . . but in those days, to white eyes, it was okay to call a black man a ''boy''.

You see it in a slim book written by Ray Sprigle, an adventurous reporter for the Pittsburgh Post-Gazette. With a shaven head and a deep Florida suntan he traveled through the south in 1948 posing as a black man to see what life was really like on the other side of the color line. Throughout his trip his black hosts told him horrific stories of indignities, humiliations, lynchings, and murders. While nothing untoward happened to Sprigle himself, it was because, as he put it, ''I gave nobody a chance. That was part of my briefing; 'Don't jostle a white man. Don't, if you value your safety, brush a white woman on the sidewalk.' So I saw to it that I never got in the way of one of the master race. I almost wore out my cap, dragging it off my shaven skull whenever I addressed a white man. I 'sirred' everybody, right and left, black, white and in between. I took no chances. I was more than careful to be a 'good nigger.'''

You see it in the work of even such thoughtful observers as Willie Morris, who in his memoir of growing up in Mississippi during the '40s recalls his complicated and mysterious relationship with the black people of his town, a relationship that warped and scarred both black and white. As a small child, he says, he had learned the special vocabulary of racism: that '''keeping house like a nigger' was to keep it dirty and unswept. 'Behaving like a nigger' was to stay out at all hours and to have several wives or husbands. A 'nigger street' was unpaved and littered with garbage.'' He writes of casual cruelties like the time he hid in the bushes until a tiny black child walked by, then leaped out to kick and cuff the child. ''My heart was beating furiously, in terror and a curious pleasure,'' he says frankly. ''For a while I was happy with this act, and my head was strangely light and giddy. Then later, the more I thought about it coldly, I could hardly bear my secret shame.'' In the small town where I grew up in East Texas, there were high school kids—classmates of mine—who made a sport out of ''nigger-knocking.'' Driving along a country road they would extend a broom handle out of the rear window at just the right moment and angle to deliver a stunning blow to an unsuspecting black pedestrian. Then they'd go celebrate over a few beers. While I never participated, it was my secret shame that I never tried to stop them.

There was a study done in 1946 by the Social Science Institute at Fisk University, the black college in Nashville, about white attitudes toward black people. In interview after interview, average citizens throughout the south never talked of overt violence or flaming hatred—but their detached and imperturbable calm was in some ways even more grotesque than physical violence. Listen to their voices:

A woman teacher in Kentucky: ''We have no problem of equality because they are in their native environment. If we permitted them to be equal they wouldn't respect us. We never have any riots because their interests are looked after by the white people.''

A housewife in North Carolina: ''They are as lovable as anyone in a lower order of life could be. . . . I had to go see an old sick woman yesterday. We feel toward them like we do about our pets. I have no horror of a black man. Why, some of them are the nicest old black niggers. They are better than a barrel of monkeys for amusement.''

A businessman in North Carolina: ''I have a feeling of aversion toward a rat or snake. They are harmless but I don't like them. I feel the same toward a nigger. I wouldn't kill one but there it is.''

Or a mechanic in Georgia: ''During the war I was stationed at a northern naval yard. The southern Negro was given the same privileges as white men. He was not used to it, and it ruined a good Negro. In the south he is treated as a nigger and is at home here. He knows his treatment is the best for him. . . . We have a good group around here. It's years and years since we've had a lynching. It's not necessary to lynch them. The sheriffs in this county take more care of the darky than the white man.''

By now these words are probably making you twist and cringe in your seats. I have trouble forcing them out of my mouth. But these words, and others like them, were the coin of the realm in 1948. After more than two centuries of slavery and nearly another of Jim Crow segregation, black people were still struggling to realize their most basic rights as human beings, let alone as citizens. The framers of the Constitution made their notorious decision in 1787 that for census purposes each black American—nearly all of whom were, of course, slaves—would count as three-fifths of a person. In the minds of many white Southerners in 1948, that fraction still seemed about right.

Yet something was beginning to change, and the old ways were coming under tough new challenges. The steadfast but quiet resistance long practiced by many southern blacks was now being strengthened by a new development: thousands of black veterans were coming home from Europe and the Pacific.

These men had fought for their country—some had even fought for the right to fight for their country, not just to dig ditches and drive trucks and peel potatoes for their country. They had served in a segregated army that had accepted their labor and their sacrifice without accepting their humanity. Some of them had come home heroes, others had come home embittered, and many had also come home determined that things would be different now—that they had earned the respect of their fellow Americans and it was time they got it. And that started at the ballot box—a tool both practical and symbolic in the struggle to ensure their status as full citizens.

All over the South, where for decades blacks had been systematically harassed, intimidated, or overtaxed to keep them from voting, intense registration drives for the 1946 campaigns had swelled the rolls with first-time black voters. And the white supremacists were fighting back. Sometimes it was brute and random violence: in Mississippi a group of black veterans was dumped off a truck and beaten up. In Georgia two black men, one a veteran, were out driving with their wives when they were ambushed and shot by a mob of whites. The mob then shot the women, too, because they had witnessed the crime. In South Carolina, a black veteran returning home by bus after fifteen months in the South Pacific angered the driver with some minor act that struck the man as uppity. At the next stop the soldier was taken off the bus by the local chief of police and beaten so badly he went blind. Permanently. Under pressure from the NAACP, something unusual happened: the chief was put on trial. Then normalcy returned. The chief was acquitted, to the cheers of the courtroom.

But the demagogues also made deliberate efforts to stop the black vote—by whatever means necessary. In Georgia, Gene Talmadge ran for governor and won, on a frankly, even joyfully racist platform. ''If I get a Negro vote it will be an accident,'' he declared, and his machine figured out ways to challenge and purge the rolls of most of them. The few brave black voters who went to the polls anyway often paid dearly for their rights; one, another veteran, the only black to vote in Taylor County, was shot and killed as he sat on his porch three days after primary, and a sign posted on a nearby black church boasted ''The first nigger to vote will never vote again.''

In Mississippi, Theodore Bilbo was reelected to the Senate with the help of a campaign of threats and violence that kept most black people home on Election Day. ''The

way to keep the nigger from the polls is to see him the night before,'' Bilbo was fond of saying. But this time black voters fought back and filed a complaint with the Senate. Nearly two hundred black Mississippians trekked to Jackson—and its segregated courtroom—to testify about the myriad pressures, both subtle and brutal, that had kept them from voting. But their eloquent testimony failed to convince the honorable members. Bilbo was exonerated by the majority of the committee members—despite (or perhaps because of) having used the word ''nigger'' seventy-nine times during his own testimony. It was a toxic word, a poisonous and deadly word. And it was still prevalent as a term of derision in the early 1960's. In August 1964, following the death of his father, the writer James Baldwin said on television: ''My father is dead. And he had a terrible life. Because, at the bottom of his heart, he believed what people said of him. He believed he was a nigger.''

So when Hubert Humphrey of Minnesota stood up at the Democratic convention in Philadelphia and urged the delegates to support his civil rights plank, he could have had no doubt how ferociously most southern delegates would oppose his words—and how desperately all southern citizens, white and black, really needed to hear them. It was a short speech and it took less than ten minutes to deliver—doubtless some kind of record for the man whose own wife reportedly once told him, ''Hubert, you don't have to be interminable to be immortal.''

Most of the time he couldn't help being interminable. Someone said that when God passed out the glands, Hubert took two helpings. He set records for the number of subjects he could approach simultaneously with an open mouth. One day, at a press conference in California, his first three answers to questions lasted, respectively, 14, 18, and 16 minutes. No one dared ask him a fourth question for fear of missing dinner!

But in Philadelphia in 1948, Hubert Humphrey delivered a short speech. And these not interminable words became immortal because they were right. He had agonized, he had weighed the odds as any politician must—remember he was a politician, and this was a time when the way to get ahead was not to go back on your party. But now he was listening to his conscience, not his party, and he was appealing to the best, instead of the basest, instincts of his country, and his words rolled through the convention hall like ''a swelling wave.''

''There are those who say to you—we are rushing this issue of civil rights. I say we are 172 years late. There are those who say—this issue of civil rights is an infringement on states rights. The time has arrived for the Democratic party to get out of the shadow of state's rights and walk forthrightly into the bright sunshine of human rights.''

We know of course what happened when he finished. A mighty roar went up from the crowd. Delegates stood and whooped and shouted and whistled; a forty-piece band played in the aisles, and the tumult subsided only when Chairman Sam Rayburn ordered the lights dimmed throughout the hall. The platform committee was then overruled and Humphrey's plank voted in by a wide margin, and all of Mississippi's delegate and half of Alabama's stalked out in protest. The renegades later formed the Dixiecrat party on a platform calling for ''the segregation of the races and the racial integrity of each race,'' and nominated Strom Thurmond for their candidate. ''There's not enough troops in the Army to break down segregation and admit the Negro into our homes, our eating places, our swimming pools, and our theaters,'' Thurmond would declare on the campaign trail, and a majority of the voters in South Carolina, Mississippi, Alabama, and Louisiana agreed with him.

But Harry Truman didn't lose. The Minneapolis Star got it right the morning after the convention when it said Humphrey's speech ''had lifted the Truman campaign out of the rut of just another political drive to a crusade.'' Harry Truman won—and the southern walkout to protest civil rights actually ended up helping the civil rights agenda. If a Democrat could go on to win the presidency anyway, even without the solid South behind him, then the segregationist stranglehold on the party was clearly weaker than advertised, and even the most timid politician could see that supporting civil rights might not be a political death sentence after all. Not bad work for the mayor from Minneapolis. The late Murray Kempton once said that ''a political convention is just not a place from which you can come away with any trace of faith in human nature.'' This one was different, because Hubert Humphrey kept the faith. There were other forces at work of course. Just this week the Star Tribune said rightly that it would be misleading to suggest the democratic ship turned on a few eloquent phrases from a young upstart, or that the party had experienced a moral epiphany. Politics is rarely that simple or intentions that noble. There were other forces at work—the need of America during the Cold War to put its best face forward, the need for Democrats to consolidate their hold on the northern industrial states, those returning black veterans. But it would be equally wrong to underestimate what Hubert Humphrey did. An idea whose time has come can pass like the wind on the sea, rippling the surface without disturbing the depths, if there is no voice to incarnate and proclaim it. In a democracy a moral movement must have its political moment to crystalize and enter the bloodstream of the nation, so there can be no turning back. This was such a moment, and Humphrey its embodiment.

But nineteen forty-eight wasn't the end of the struggle, of course; it turned out to be just the beginning. Sixteen years later, in 1964, Lyndon Johnson, another accidental president, staked his reputation on getting a comprehensive Civil Rights bill passed into law. And Hubert Humphrey, now Senator Humphrey, was the man assigned the gargantuan challenge of shepherding the bill through Congress in the face of a resolute southern filibuster. Once again I was privileged to work with him. By now I had become President Johnson's policy assistant, and the Civil Rights Act of 1964 was our chief imperative.

By then the face of the segregated South had changed—somewhat. The landmark Supreme Court decision Brown vs. Board of Education had given legal aid and comfort to the long moral crusade to open the public schools to all races, while courageous activists were putting their own bodies on the line in determined efforts to desegregate the buses, the lunch counters, the beaches, the rest rooms, the swimming pools, and the universities of the South.

But all the court decisions and sit-ins in the world had not changed the determination of the diehard segregationists to defend their vision of the South ''by any means necessary,'' and the few federal laws on the books were too weak to stop them. A lot of this story, while awful, is familiar; we may think we have a pretty good idea what was at stake when Hubert Humphrey made his second great stand for civil rights. We've all seen the photographs and the television images; we all know about the ugly mobs taunting the quiet black teenagers outside the schools and inside the Woolworths, we know about the beatings and attack dogs and fire hoses, we know about the murders. During Freedom Summer—the very same summer the Senate completed work on the civil rights bill—Mississippi endured 35 shootings, the bombing or burning of 65 homes and churches, the arrest of one thousand activists and the beating of eighty, and the killing of three volunteers with the active connivance of the Neshoba County sheriff's department, their bodies bulldozed into an earthen dam.

But we don't know as much about another, more silent tactic of white resistance that was just as oppressive, and in some ways maybe even more effective than the violence. I mean the spying, the smearing, the sabotage, the subversion, all carried out by order of the highest officials in states across the south.

We were reminded of the twisted depths of official segregation just this spring, when after decades of court battles Mississippi was ordered to open the secret files of something called the State Sovereignty Commission. This was an official government agency, bountifully funded with taxpayer money, lavished with almost unlimited police and investigative powers, and charged with upholding the separation of the races. Most of the southern states had similar agencies, but Mississippi had a well-deserved reputation as the worst of the bad.

I've seen some of those Sovereignty Commission files. I've read them. And I understand how a longtime activist in Jackson could recently tell a reporter I know, ''These files betray the absolute paranoia and craziness of the government in those times. This was a police state.''

The Commission devoted astonishing amounts of effort, time, and money to snooping into the private lives of any citizens who supported civil rights, who might be supporting civil rights, or whom they suspected of stepping over the color line in any way. It tracked down rumors that this northern volunteer had VD and that one was gay. It combed through letters to the editor in local and national newspapers, and wrote indignant personal replies to anyone who held a contrary opinion. It sent agents to a Joan Baez concert at a black college to count how many white people came, and posted people at NAACP meetings to write down the license numbers of every car in the parking lot. It stole lists of names from Freedom Summer activists and asked the House Un-American Activities Committee to check on them. It went through the trash at the Freedom Houses and paid undercover informants to report on leadership squabbles and whether the white women were fornicating with the black men.

The most incriminating documents were purged long ago, but buried deep in those files is still ample evidence of violence and brutality. I am haunted by the case of a black veteran named Clyde Kennard. When he insisted on applying to the local college, one that happened to be for whites only, he was framed on trumped-up charges of stealing chicken feed and sent to Parchman, the infamous prison farm, for seven years. While there he developed colon cancer and for months was denied treatment. Eventually, after prominent activists brought public pressure to bear on the governor, Kennard was released, but it was too late. In July 1963, a year before the passage of the Civil Rights Bill, Clyde Kennard died following surgery. He was 36 years old.

Reading these files you are struck not only by the brutality but by the banality of the evil. You find in them the story of a divorced mother of two who was investigated after the Commission heard a rumor that her third child was fathered by a black man. An agent arrived to interview witnesses, confront the man, and look at the child. ''I had

a weak feeling in the pit of my stomach,'' he reported; he and the sheriff ''were not qualified to say it was a part Negro child, but we could say it was not 100 percent Caucasian.'' After that visit, the woman's two older boys were removed from her custody.

You can read about how a local legislator reported to the Commission that a married white woman had given birth to a baby girl with ''a mulatto complexion, dark hair that has a tendency to 'kink,' dark hands, and light palms.'' A doctor and an investigator were immediately dispatched to examine the child, then shelled out $62 for blood tests to determine its paternity. The tests came back inconclusive but a couple of months later shots were fired at night into the family's home and a threatening letter signed by the KKK, referring to ''your wife and Negro child,'' showed up on their doorstep. They moved out immediately.

It was crazy—and it was official. This was the rampant and unchecked abuse of state power turned against citizens of the United States of America. And this was the background music to Lyndon Johnson's 1964 Civil Rights bill, which called for the integration of public accommodations, authorized the attorney general to sue school districts and other segregated facilities, outlawed discrimination in employment, and further protected voting rights. When Hubert Humphrey accepted the assignment as floor manager for this bill, he knew how crucial as well as how difficult it would be to gather enough votes to end the southern filibuster; no one had ever managed to invoke cloture with a civil rights bill before. He also knew his own career was again on the line, since LBJ was using the assignment to test Humphrey's worth as his vice presidential candidate.

The filibuster began on March 9 and went on, it seemed, forever. But Humphrey was prepared and organized. A couple of times during those long months of debate I slipped into the gallery of the Senate to watch him lead the fight. The same deep fire of justice that burned in him at the 1948 convention, burned within him still. He was utterly determined. He had regular strategy meetings. He issued a daily newsletter. He enlisted one colleague to focus on each title of the bill. He schmoozed and bargained with and coaxed and charmed the key men whose support he needed. He persuaded the Republican Leader, Everett Dirksen, to retreat from at least 40 amendments that would have gutted the bill. He orchestrated the support of religious organizations until it seemed the corridors and galleries of Congress were overflowing with ministers, priests, and rabbis). ''The secret of passing the bill,'' he said, ''is the prayer groups.'' But the open secret was Hubert Humphrey. As Robert Mann reminds us in The Walls of Jericho,'' his good humor and boundless optimism prevented the debates from dissolving into personal recrimination. Once again he kept the faith. As he told his longtime supporters at the ADA after more than two months of frustration and delay, ''Not too many Americans walked with us in 1948, but year after year the marching throng has grown. In the next few weeks the strongest civil rights bill ever enacted in our history will become the law of the land. It is not saying too much, I believe, to say that it will amount to a second Emancipation Proclamation. As it is enforced, it will free our Negro fellow-citizens of the shackles that have bound them for generations. As it is enforced, it will free us, of the white majority, of shackles of our own—for no man can be fully free while his fellow man lies in chains.''

As we know, his skills and commitment paid off. Seventy-five days later, on June 10, the Senate finally voted for cloture with four votes to spare. A California senator, ravaged with cancer, was wheeled in to vote and could manage to vote yes only by pointing to his eye. After cloture ended the filibuster, the bill passed by a wide margin. On July 2 President Johnson signed it.

During all that time Hubert Humphrey broke only once—on the afternoon of June 17, two days before the historic vote. Summoned from the Senate floor to take an urgent call from Muriel, he learned their son Robert had been diagnosed with a malignant growth in his throat and must have immediate surgery. There in his office, Hubert Humphrey wept. As his son struggled for his life and the father's greatest legislative triumph was in sight, Hubert Humphrey realized how intermingled are the pleasure and pain of life.

We talked about this the last time I saw Hubert Humphrey. It was early in the summer of 1976. He came to our home on Long Island where I interviewed him for Public television. We talked about many things . . . about his father who set such high standards for the boy he named Hubert Horatio; about his granddaughter Cindy (a little pixie, he called her); about waking up on the morning after he had lost to Richard Nixon by fewer than 511,000 votes out of 63 million cast; about the tyrannies of working for Lyndon Johnson (Said Humphrey of Johnson: ''He often reminded me of my father-in-law and the way he used to treat chilblains. Grandpa Buck would get some chilblains and he said the best way to treat them was put your feet first in cold water, then in hot water. And sometimes [with LBJ] I'd feel myself in hot water, then I'd be over in cold water. I'd be the household hero for a week and then I'd be in the dog house.'')

We talked about the necessity of compromise and the obligation to stand firm against the odds, and the difficulty of making the distinction. We talked about the life-threatening illness he had himself recently endured and what kept him going through the vicissitudes of life. Growing up out here on the great northern plains had made a difference, he said: ''I used to think as a boy that in the Milky Way each star was a little place, a sort of light for somebody that had died. . . . I used to go pick up the milk—we didn't have milk delivery in those days—I'd go over to Dreyer's Dairy and pick up a gallon of milk—I can remember those cold, wintry nights and blue sky, and I'd look up and see that Milky Way and I'd think every time anybody died they got a star up there. And all the big stars were for the big people. You know, like Caesar or Lincoln. It was a childhood fantasy. But it was a comforting thing.''

He was called ''The Happy Warrior'' because he loved politics and because of his natural ebullience and resiliency. I asked him: ''Some people say you're too happy and that this is not a happy world.'' He replied: ''Well, maybe I can make it a little more happy . . . I realize and sense the realities of the world in which we live. I'm not at all happy about what I see in the nuclear arms race . . . and the machinations of the Soviets or the Chinese . . . the misery that's in our cities. I'm aware of all that. But I do not believe that people will respond to do better if they are constantly approached by a negative attitude. People have to believe that they can do better. They've got to know that there's somebody that's with them that wants to help and work with them, and somebody that hasn't tossed in the towel. I don't believe in defeat, Bill.''

He lost some elections in his long career, but Hubert Humphrey was never defeated. More than any man I know in politics, he gave me to believe that in time, justice comes . . . not because it is inherent in the universe but because somewhere, at some place, someone will make a stand, and do the right thing, and seizing the helm of history will turn the course of events.

So the next time you look up at the Milky Way, look past the big stars, beyond the brilliant lights so conspicuous they can't be missed . . . the Caesars and the Lincolns . . . and look instead for the constant star, a sure and steady light that burns from some deep inner core of energy . . . and remember how it got there and for whom it shines. He was one of your own.

THANKS FOR ''RIGHT TO LIFE'' SUPPORT

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. SHIMKUS. Mr. Speaker, today I rise for two purposes. First to honor three women who have dedicated their lives to the rights of the unborn, and secondly to thank the 296 Members of this body that voted yesterday to protect the right to life. Felicia Goeken, Mary F. Jones, and Christy Holt have served the Illinois Federation for Right to Life in countless ways, and it is women like these that made yesterday's vote to ban partial birth abortions possible. I have had the pleasure of knowing each of these women personally, and I have witnessed first hand their dedication, compassion, and leadership.

Tomorrow these women will be honored for their outstanding service and I wish them the utmost congratulations and thanks for their efforts. It is through the work of caring individuals like Felicia, Mary, and Christy, that the rights of the most vulnerable members of our society will be protected. I know the hard work these women have contributed to the fight, and on their behalf I am proud to say that a overwhelming majority of this Congress has finally proven its dedication to the unborn.

IN SUPPORT OF THE SHIPPING RELIEF FOR AGRICULTURE ACT, H.R. 4236

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. SMITH of Michigan. Mr. Speaker, I rise in support of the Shipping Relief for Agriculture Act, H.R. 4236. U.S. domestic maritime law is embodied in section 27 of the Merchant Marine Act, known as the Jones Act. The Jones Act requires that all cargo transported from one U.S. port to another (even via a foreign port) must travel on vessels built, owned, manned, and flagged in the United States. While initially sounding pro-American, the Jones Act has not protected the fleet. According to the U.S. Maritime Administration, there are only 119 deep-sea ships left in the domestic fleet (down from over 2,500 in 1945) and only three of these are dry bulk vessels.

Only two bulkers have been built in U.S. shipyards in the last 35 years. To contract for a new ship would cost an American operator over three times the international market rate before any type of export subsidy was applied. This practically assures no new bulkers will be

built in this country. It is time that we stop fooling ourselves that a renaissance in U.S. shipbuilding is just around the corner.

Because of the Jones Act, U.S. agricultural producers today do not have access to domestic deep-sea transportation options available to their foreign competitors. There are no bulk carriers operating on either coast of the United States, in the Great Lakes, nor out to Guam, Alaska, Puerto Rico, or Hawaii. This puts American producers at a competitive disadvantage because foreign producers are able to ship their products to American markets at competitive international rates whereas U.S. producers are not.

American agricultural producers also need access to deep-sea transportation options because other modes of transportation are saturated. Last year's rail woes would have been averted if just 2% of domestic agricultural production could have traveled by ocean-going vessel. With an expected record harvest on the way, the bottlenecks and congestion of last year will in all likelihood be revisited. Burlington and Union Pacific have already notified agricultural shippers to expect delays. This raises rail rates to artificially high levels at a time when commodity prices are already depressed—directly impacting farm income.

The Shipping Relief for Agricultural Act will eliminate the U.S. build requirement for deepwater dry bulk vessels for the carriage of agricultural products, dry bulk cargo, and forest products. All vessels would still be required to obey all U.S. law, including environmental, safety, labor, and tax regulations. This bill brings more ships to the U.S. fleet, allows U.S. Agricultural shippers access to ships, and will also provide much needed jobs for the American Merchant Marine.

PERSONAL EXPLANATION

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Ms. MILLENDER-McDONALD. Mr. Speaker, on Friday, July 17, and Monday, July 20, 1998, I filed an official leave of absence and was not available to cast votes on either of those days. However, had I been present on Friday, July 17, I would have voted ''aye'' on rollcall vote 295, and ''nay'' on rollcall vote 296.

Had I been present on Monday, July 20, I would have voted ''aye'' on rollcall votes 297, 298, 299, 300, 301, 303, 304, 305, and ''nay'' on rollcall votes 302, 306, 307, 308.

TRIBUTE TO SUSAN GAIL YOACHUM

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Ms. ESHOO. Mr. Speaker, I rise today to honor Susan Gail Yoachum, a magnificent human being and extraordinary journalist of the San Francisco Bay Area who passed away on June 22, 1998. She was the devoted wife of Mike Carlson, the daughter of Betty and the late Charles G. Yoachum, and the sister and relative of Charles Yoachum and his family of Dallas.

Susan Yoachum was a star from the moment she was born in Dallas, Texas on May 12, 1955. Her passion for writing emerged early in her life as she became the National Spelling Champion in 1969. She pursued her talent at Southern Methodist University in Dallas, from which she graduated in 1975 with Bachelor of Arts degrees in journalism and political science.

She was a reporter for the Dallas Morning News, the Independent Journal in Marin County, the San Jose Mercury News, and the San Francisco Chronicle, covering some of the largest political stories of her era. Her talent for seeking out and delivering breaking stories went unmatched in political journalism. This talent was recognized in 1990, when she was part of a team that won a Pulitzer Prize for breaking news, and again in 1994, when she was honored as Journalist of the Year by the Northern California chapter of the Society of Professional Journalists. She earned a reputation amongst her peers and those about whom she wrote as a tenacious, witty, and sophisticated reporter, armed always with a penetrating question and a warm smile. Since 1990, she had covered national, state, and local politics for the San Francisco Chronicle, where she was promoted to Political Editor in 1994. As a popular political analyst, she was often a guest on TV and radio programs, from CNN's ''Inside Politics'' to a myriad of Bay Area radio shows.

In 1991, Susan Yoachum was diagnosed with metastatic breast cancer. During her seven-year struggle with breast cancer, she not only continued to produce brilliant work, but she also became a breast cancer activist. In an effort to raise awareness about this horrible disease, she frequently spoke to women's organizations, political groups, and fellow victims. In 1997, she courageously wrote about her own battle with cancer, announcing that after being in remission since 1992, her cancer had returned. She strove to humanize the statistic that 180,000 women get breast cancer every year, personalizing the cold facts with her own face.

Mr. Speaker, Susan Yoachum was an inspiration to us all. She educated us with her sharp journalistic talent, she personalized and publicized what breast cancer is about, she fought for a cure, and she made lasting contributions to our community and our country.

Mr. Speaker, I ask my colleagues to join me in paying tribute to a woman who lived a remarkable yet all too brief life. We extend our deepest sympathy to Mike Carlson and the entire Yoachum family. Susan Yoachum's life was an example of the strength of the human spirit, and because of her, hope lives on.

A SALUTE TO COLONEL JOSEPH A. HAIG (U.S. ARMY, RET.)

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. BARRETT of Wisconsin. Mr. Speaker, today I am pleased to recognize a patriot and honorable American from Milwaukee, Wisconsin. As family and friends gather today to honor Colonel Joseph A. Haig on the occasion of his 100th birthday, I would like to take a moment to acknowledge Colonel Haig's longtime service to our country.

Joseph A. Haig was born in Milwaukee, Wisconsin on August 24, 1898, and enjoyed a typical turn of the century boyhood. In the summer of 1918, however, with the ''war to end all wars'' still raging in Europe, Joseph crossed the threshold into manhood, and joined the United States Army, as part of the Officers Candidate School. As one of the ''60 day wonders'', he received his commission when he was only twenty years old.

After the war, Joseph returned to civilian life, but remained active as a reservist. In 1923, he became a charter member of the Reserve Officers Association. Today, he is the sole surviving charter member.

In the summer of 1940, before the United States officially entered World War II, Joseph was called to active duty as a major. He was made the assistant commanding officer of the Recruit Reception Center at Fort Sheridan, Illinois. During the next three years, he processed nearly a quarter of a million draftees. In 1945, then Major Joseph Haig was assigned to a camp in Pennsylvania as deputy post commander. In that position, he had the pleasant duty of facilitating the discharge of about 400,000 men, until he was discharged from active duty.

Once again, the end of active duty did not mean the end of his military career. Now Colonel Joseph Haig continued on as a reservist and remained involved and prepared to serve his country, when needed, until his mandatory retirement forty years ago.

Colonel Haig still attends the annual Reserve Officers Association meetings. Ten years ago, when he was a mere 90 years old, Colonel Haig was honored at the Association's annual meeting, as hundreds of generals and admirals greeted him with a tremendous standing ovation.

Another source of pride for Colonel Haig is his family, which includes his children Janet, Douglas, and Jerry, along with 20 grandchildren and 22 great-grandchildren. Colonel Haig's sons share in their father's sense of service to country and have served in the military. Douglas is a retired Air Force colonel. Jerry is a retired Naval Lieutenant Commander. The Haig family's combined years of military service is a staggering 176 years.

I ask my colleagues in the House of Representatives to join me in extending my appreciation to Colonel Joseph A. Haig for his many years of service to the people of the United States and in offering a hearty congratulations on the occasion of his 100th birthday.

POLITICALLY DRIVEN MANAGED CARE REFORM DEBATE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. OBERSTAR. Mr. Speaker, I rise today to express my grave concern that the debate today on managed care reform has deteriorated into a politically-driven exercise to serve the narrow and partisan goals of the majority party.

Neither the Republican leadership bill nor the Dingell/Ganske substitute were subjected

to the cleansing legislative process, in which the American people expect public hearings, open and full debate, a committee amendment process, and a meaningful opportunity to make specific changes to the legislation.

At each of these normal checkpoints of legislative procedure, the public and their elected representatives were denied the opportunity to participate fully in the legislative process, to offer and debate amendments and vote on them to produce a legislative output that hopefully reflects a solid consensus, or, at least, the end result of a democratic process.

Instead, we are engaged in a debate without the opportunity to make substantive and necessary changes to either piece of legislation through floor amendments, and we will be compelled to vote these competing measures either up or down without meaningful change.

Given the opportunity, I would have preferred that both bills be neutral on the issues of abortion and assisted suicide.

While there has been a good faith attempt in the Dingell/Ganske legislation to address these two matters, I strongly believe that the language on such issues must be so clear as to withstand judicial scutiny that health care plans are not required to provide assisted suicide or abortion services.

Given the opportunity, I would have offered the following language that would achieve this important objective:

Amend Section 108 and 109 of H.R. 3605 by adding the following new subsection (c):

''(c) Nothing in this Act shall be construed as requiring a group health plan or health insurance coverage to provide, pay for, refer for, or ensure the availability of or access to any benefit or service, including the use of facilities, related to an abortion or any item or service for which use of Federal funds is prohibited under the Assisted Suicide Funding Restriction Act of 1997. Nothing in the preceding sentence shall be construed as allowing a group health plan or health insurance converge to deny any benefit or service related to treatment for medical complications resulting from an abortion.''

Amend Section 141 of H.R. 3605 by adding the following new subsection (b)(3):

''(b)(3) Nothing in this Act shall be construed to cause a group health plan or health insurance issuer to violate its ethical, moral or religious benefits.''

I have been assured by the distinguished gentleman from Michigan, Mr. DINGELL, the Ranking Democrat of the Commerce Committee, that it is his intent that the legislative history should reflect that his legislation seeks to be neutral on these two issues.

With that statement of legislative intent, I plan to support the Dingell/Ganske substitute.

I want to make it clear on this point that I will seek inclusion of the legislative language that I have just referenced in any further managed care legislation that this Congress may consider.

CHILD NUTRITION AND WIC REAUTHORIZATION AMENDMENTS OF 1998

SPEECH OF

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1998

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today in strong support of H.R. 3874, the Child Nutrition and WIC Reauthorization Act. This bill gives our states more opportunity to fight against a problem that plagues our nation even in these prosperous times—child hunger.

This bill is linked to almost every issue we struggle with on this House floor. Every year, we discover stronger links between child nutrition and all the indicators of a child's future. Better nutrition means better learning, better test scores, better health, better discipline.

But child hunger is alive and well in America. I've traveled all over my home state of Massachusetts hearing about how and why children go without adequate nutrition. And I've heard about the safety net that keeps many of our kids from going hungry—healthy meals at school, after school, and at summer feeding sites.

We can protect our children from hunger. We can guarantee that every child has an opportunity to get good quality nutrition year round. This bill doesn't do everything I'd like, but it takes big steps in the right direction.

This bill would allow more of our states to experiment with universal free breakfast. In districts that have tried free breakfast—in Philadelphia, Baltimore, and parts of Minnesota—more kids are showing up for breakfast, kids are doing better in school, and kids are behaving better.

This bill allows more sites to participate in the summer feeding service, and makes it easier for the states to administer those programs. It allows more schools to use federal funds to serve meals at after-school programs. And it allows teenage children to get free after-school snacks in low-income communities.

Mr. Speaker, this bill not only provides more meals for more children, but it makes it easier for the states to use federal money in their own efforts to fight child hunger. I strongly urge my colleagues to support this bill.

WAXMAN AMENDMENT REMARKS

SPEECH OF

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. SCHUMER. Mr. Chairman, I rise in support of the Waxman amendment.

The Hudson River is drowning and we need to throw it a life jacket.

It is time to put an end to Congress's interference in the cleaning up of our communities and eliminate the alarming language attached to the VA–HUD appropriations report that will suffocate public health and bulldoze environmental protections.

It is time to demand of our federal government that they not kowtow to big companies like General Electric, big companies who need to start taking responsibility for the deleterious effect their factories are having on our society.

The Hudson River is now contaminated with toxic PCBs—one of the most harmful pollutants known, in large part because General Electric and other companies allowed these dangerous poisons to seep into our waterways.

General Electric maintains that the PCBs are entombed under silt—that the river is cleaning itself. Today there is new evidence that the situation is worse than our worst nightmare. PCBs are escaping from the sediments in the Hudson River and are being carried downstream and settling in other parts of the river contaminating more and more fish and more and more people.

The New York regional administrator of the EPA stated today that ''the fact that these PCBs are so rapidly reentering the river system is startling. Given what we know about the health risks of eating contaminated fish, this information is even more startling.''

Based upon all of the evidence, the EPA is convinced, and so am I, that PCB contamination is a significant threat to public health and the environment.

How much more evidence do we need? How many more experts need to tell us that something needs to be done? How many more New Yorkers need to suffer from immediate and long-term health problems posed by toxic PCB pollution?

Mr. Chairman, we need to dredge the polluted waters of the Hudson and we need to do it now. New York City is built on islands surrounding water, water which cannot be utilized to its fullest potential because of the lethal levels of contaminants. We need to seize this moment and make a last ditch effort to clean up the Hudson River waterfront and make it the jewel it once was.

It is imperative that the Hudson not be sent down the river and New Yorkers not be forced to walk the plank.

Support the Waxman amendment. Eliminate these dangerous riders.

U.N. DUES ARE A LEGAL OBLIGATION

HON. LEE HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. HAMILTON. Mr. Speaker, some observers have argued that we do not owe to the United Nations the dues we have been assessed by that organization. I would like to set the record straight.

I recently posed a series of questions to the Department of State regarding the nature of our international legal obligations to the United Nations. The reply I received to those questions indicates that while Congress can refuse to pay the bills we owe, that in no way relieves our responsibility to pay those bills.

I ask permission to include in the RECORD my correspondence with the Department of State on this subject, and encourage my colleagues to review it.

DEPARTMENT OF STATE,
Washington, DC, July 8, 1998.

Hon. LEE H. HAMILTON
House of Representatives

DEAR MR. HAMILTON: Thank you for your letter of May 15, raising several important

questions regarding the character and extent of the obligations of the United States under international law to pay amounts assessed by the United Nations.

The Office of the Legal Adviser has prepared the enclosed document, which responds to your questions.

Please let us know if we can provide further information.

Sincerely,

BARBARA LARKIN,
Assistant Secretary, Legislative Affairs.

Enclosure: As stated.

RESPONSE TO REPRESENTATIVE HAMILTON'S QUESTIONS REGARDING THE STATUS OF UNITED STATES DUES TO THE UNITED NATIONS

(1) On what basis does the United States owe money to the United Nations?

In what document does the obligation arise?

Does Article 17 of the United Nations Charter, which states ''the expenses of the Organization shall be borne by the Members as apportioned by the General Assembly,'' impose a treaty obligation?

From a legal perspective, how does Congress' power of the purse under the Constitution square with any legal obligation to pay dues to the United Nations?

When a treaty and a law conflict, which prevails?

Does the power of Congress to withhold funds release it from treaty obligations to pay dues?

Does the lack of an enforcement mechanism on the part of the United Nations to compel payment nullify any legal U.S. obligation to pay dues to that institution?

Answer: The international legal obligation to pay such assessments arises under the United Nations Charter, a treaty made with the advice and consent of the Senate. The Charter is binding on the United States under international law. Article 17(2) of the Charter states that: ''The expenses of the Organization *shall be borne by the Members* as apportioned by the General Assembly'' (emphasis added). The consistent position of the United States has been that Article 17 creates an obligation under international law to pay amounts assessed by the United Nations. While any particular assessment is not itself a treaty, it is made pursuant to treaty (the Charter), and legal obligation to pay it derives from that treaty.

In the early 1960's, when the former Soviet Union, France and some other States refused to pay assessments for Congo and Mid-East peacekeeping operations, the United States insisted that they had an obligation to do so under international law. The United States at that time said that:

The language of the provision [Article 17(2)] is mandatory: expenses ''*shall* be borne.'' (Emphasis added.) Accordingly, the General Assembly's adoption and apportionment of the Organization's expenses create a binding international legal obligation on the part of States Members to pay their assessed shares.

The history of the drafting of Article 17(2) demonstrates that it was the design of the authors of the Organization's constitution that the membership be legally bound to pay apportioned expenses.

Written Statement of the United States, at 193, *I.C.J. Pleadings, Certain Expenses of the United Nations (Article 17, paragraph 2, of the Chapter*) (1962). When the International Court of Justice gave an advisory opinion affirming the international legal obligation to pay such assessments in the *Certain Assessments* case, Congress passed a resolution expressing its satisfaction with the International Court of Justice's opinion, 22 U.S.C. 287k, and a resolution calling on the United Nations to take ''immediate steps to give effect'' to the Court's opinion. 22 U.S.C. 2871.

This has remained the consistent legal position of the United States and has been reaffirmed by successive administrations. For example, a 1978 published opinion of the State Department's Legal Adviser reiterated that Article 17(2) of the United Nations Charter imposes a legally binding obligation on Member States to pay the amount assessed to them by the General Assembly. Nash, *Digest of United States Practice in International Law 1979*, 225 (1979).

While nothing in the Constitution compels the Congress to refrain from passing a law inconsistent with an existing international legal obligation of the United States, U.S. courts when faced with a conflict have—as a matter of domestic law—applied the later-in-time rule. Thus, Congress can, as a matter of U.S. law, decline to appropriate amounts sufficient to pay United States assessments made pursuant to Article 17 of the Charter. However, such action by Congress does not relieve the United States of its responsibility under international law. Instead, the failure to pay renders the United States in breach of its international obligations.

Article 19 of the Charter establishes that, where a Member of the United Nations is two years in arrears in paying its financial contributions, it shall lose its vote in the General Assembly. The United Nations Secretariat determines when a State is two years in arrears such that this sanction applies. No vote of the General Assembly is involved. Indeed, the United States has insisted that Article 19 should operate automatically and without a vote or other implementing action by the General Assembly.

(2) A portion of the arrears owed by the United States to the United Nations result from ''policy withholdings'' by the executive branch, not legislatively mandated withholdings. In addition, the Administration has recognized, through seeking the creation of a ''contested arrear'' account, that we simply intend to ''write off'' some $400 million in arrears to the U.N.

Why does this portion of U.S. arrears not constitute a legal treaty obligation?

By what rationale do we argue that some arrears are legally binding and others are not?

Do past U.N. actions in suspending the requirement for payment of arrears by other countries provide a precedent for our arguments?

Answer: As your letter notes, the United States has not paid certain assessments because of differences with the United Nations regarding matters of policy. A significant amount of these non-payments reflects an ongoing dispute between the United States and the United Nations as to the specific amounts that the United States is to provide with respect to certain tax reimbursements. Other non-payments reflect policy differences regarding particular UN programs or actions. Some of these ''policy withholdings'' have been implemented by the Executive Branch. Others, such as the 25% ceiling on the amount the United States will pay for peacekeeping operations, arise under statute. Whatever their policy justification, these withholdings do not relieve the United States of its continuing international legal obligation to pay the amount assessed.

(3) What are the legal consequences of our failure to pay our arrears?

Who determines what the U.S. legal obligation is, the U.S. or the U.N.?

Answer: The only legal sanction for failure to pay arrears specified in the Charter is the loss of vote under Article 19, as previously mentioned. Some governments have urged that the United Nations adopt additional measures to sanction countries that are significantly in arrears, such as limitations on procurement or on recruitment of their nationals. The United States has opposed all of these proposals. Thus far, none has been adopted. However, sustained U.S. non-payment of its assessments has lead to growing criticism that the United States does not abide by international law.

COMMITTEE ON
INTERNATIONAL RELATIONS,
Washington, DC, May 15, 1998.

Hon. MADELEINE K. ALBRIGHT,
Secretary of State, Department of State, Washington, DC.

DEAR MADAM SECRETARY: I want to ask clarification of the status of United States dues to the United Nations.

Some commentators have suggested increasingly that the United States may not be obligated legally to pay its assessed dues to the United Nations. The Administration has stressed that these dues are international legal treaty obligations of the United States. I would appreciate answers to the following questions, in hopes of clarifying discussion of this issue.

(1) On what legal basis does the United States owe money to the United Nations?

In what document does the obligation arise?

Does Article 17 of the United Nations Charter, which states ''the expenses of the Organization shall be borne by the Members as apportioned by the General Assembly,'' impose a treaty obligation?

From a legal perspective, how does Congress' power of the purse under the Constitution square with any legal obligation to pay dues to the United Nations?

When a treaty and a law conflict, which prevails?

Does the power of Congress to withhold funds release it from treaty obligations to pay dues?

Does the lack of an enforcement mechanism on the part of the United Nations to compel payment nullify any legal U.S. obligation to pay dues to that institution?

(2) A portion of the arrears owed by the United States to the United Nations result from ''policy withholdings'' by the executive branch, not legislatively mandated withholdings. In addition, the Administration has recognized, through seeking the creation of a ''contested arrear'' account, that we simply intend to ''write off'' some $400 million in arrears to the U.N.

Why does this portion of U.S. arrears not constitute a legal treaty obligation?

By what rationale do we argue that some arrears are legally binding and others are not?

Do past U.N. actions in suspending the requirement for payment of arrears by other countries provide a precedent for our arguments?

(3) What are the legal consequences of our failure to pay our arrears?

Who determines what the U.S. legal obligation is, the U.S. or the U.N.?

I appreciate your cooperation in providing answers to these questions.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

FAMINE IN SUDAN

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. HALL of Ohio. Mr. Speaker, I rise today to let our colleagues know about the people in

southern Sudan, who are dying of starvation by the tens of thousands. The prospects are especially dim for the million Sudanese who are facing deaths in the next three months.

I was in Sudan a few weeks ago, visiting people in the famine-stricken region and meeting with aid workers and government officials. Since then, one of the feeding centers I went to has been bombed, and a village—where I watched the United Nations' biggest humanitarian airlift in history in operation—has been attacked. The small amount of food captured was turned into a funeral pyre for the people who were too weak to run from the raiders. It was a small village, and I'm sure that some of the people I met were among those who either died or fled.

As all of us know who visit people in such situations, their faces stay with you long after their bodies surely have failed. The faces of Ethiopians I saw during that country's great famine inspired the humanitarian work that I am privileged to do. Since then I have seen others suffer similar fates. Many other Africans, Koreans, Bangladeshis, too many other countries' citizens. Many of them elderly people; many more of them children.

But for me, nothing had rivaled Ethiopia in the depth of its famine, until I saw the people of southern Sudan a few weeks ago. It was not my first trip to that country, so I know what is happening is extraordinary.

The feeling of slowly starving is unimaginable for most of us. Thankfully, so is the agony of watching our own children slide into the nightmare of famine. But the wrenching images of their fate confront us more and more in our media, and we all are diminished by the fact that this tragedy was not prevented.

The problems that have brought famine to 2.6 million Sudanese people are complex. Sudan's civil war has not merely split the nation into two groups; it has splintered it into many factions. The hatreds are racial and religious, and atrocities committed on all sides have deepened the divisions.

Some observers blame Sudan's problems on the National Islamic Front, which controls its government; but all parties to this conflict have blood on their hands. But blame won't save the people of southern Sudan—and time spent trying to parcel it out threatens to distract us. The only endeavor that can ease these innocent people's suffering is whatever can get relief to them immediately. Beyond that, our time would be best spent in pressing for a political settlement, so that this famine does not spill into next year.

The United States has led the international community in humanitarian aid to Sudan this year, I am proud to report. European nations, except for Great Britain, have lagged shamefully. And nations such as Japan and those in the Middle East—who have ample resources to share, and whose own security is threatened by turmoil in Sudan—have been downright niggardly. Our allies and others should do far more to respond to this crisis, and America's generosity gives us the moral authority to press them harder. We have contributed nearly half of the total raised so far by the United Nations, and an even greater share of the assistance delivered by Christian and other charities.

Of course, the percentages that well-fed nations use to track progress toward filling United Nations appeals mean little to people who are starving. In the end, what it means—that half of the appeal remains unmet, that the United Nations is struggling to get food to those in need—is that ''stick people'' who have walked for days to reach feeding centers are being turned away every day.

Two more facts are equally clear. First, a million more people are likely to die—as many as in Ethiopia's two-year famine. Second, our nation and our citizens can do far more. We have given generously, but the amount of food still needed is well within our capacity to provide.

The grain-purchase initiative that President Clinton announced last week may help some American farmers significantly, but it will be the difference between life and death for hundreds of thousands of people facing starvation and malnutrition. In Sudan, our donation will be welcome relief, because war has prevented planting throughout much of this fertile region and so food shortages will continue even after the fall harvest. But it will not save those facing starvation, because it will arrive too late.

The only aid that will make a difference to these people is food that can be purchased in the region, and the urgent immediate loan of additional cargo planes to Operation Lifeline Sudan, so that the United Nations can get the food to those in need. Our law permits such action, and the urgency of this crisis certainly warrants it.

In addition to aid, though, the people of Sudan sorely need peace. This is the second catastrophic famine to strike the same area this decade. We cannot let ''donor fatigue'' dampen our response to the plight of so many people, but neither can we ignore what observers have been saying for years: that humanitarian aid cannot be a substitute for a political solution to Sudan's war. We have a moral obligation to respond generously to the immediate needs, but we have an equal obligation to step up our efforts to help end the war that has caused—and sustained—this famine and the last one.

Frank Wolf and I, along with other Members who share our concern, have called on President Clinton to make peace in Sudan a higher priority. When the need for peace in Northern Ireland became acute, President Clinton sent one of our nation's leading negotiators. Former Senator George Mitchell traveled to that country 100 times to secure an agreement. In Bosnia, and again in Kosovo, Richard Holbrooke was dispatched. Former Secretary of State James Baker III is making superb progress in western Sahara's dispute.

But when it comes to black Africa, our ''A Team'' has remained on the bench. Those Americans who are involved are dedicated, but they do not move in the high-level circles where decisions are made that can make a difference in Sudan. Our allies in Kenya and Britain (the regional leader and the former colonial power, respectively) are doing their best to press for peace. But they lack the high-level American counterpart that could lend momentum to their work.

A few days ago, Sudan's government and rebels agreed to a cease-fire. This might help aid workers do their jobs—if they can get the food and medical supplies they need. But this first cease-fire in four years also dangles the possibility that this three-month truce could be extended into a lasting one, or allow confidence-building measures on which to base peace talks.

Next month, Sudan and its neighbors will return to peace negotiations. It is an opportunity we should not squander. Naming a well respected special envoy—someone with stature who can work with our allies toward peace, and who can inform policy making in our country—would let us seize that opportunity.

It would show that Sudan is on the priority track that the situation warrants. And it would uphold the commitment that President Clinton made on his historic trip to Africa earlier this year. He promised then that the United States would never again let atrocities like we saw in Rwanda go unanswered. Yet the slavery and butchery that happens every day in Sudan rival Rwanda's violence. And the number of people who already have died is three times the number of Rwandan dead.

Mr. Speaker, a peaceful Sudan could feed its own people—and much of Africa. It almost certainly would stop undermining the fragile progress of its many neighbors. Peace would allow Sudan to flourish without relying on terrorists and their client states for support. Most importantly, peace would cap Sudan's rising death toll, which already has passed the two million mark.

Mr. Speaker, it is in America's national interest to help provide such hope to Africa's largest nation, and especially to the 2.5 million people there who face starvation this year. We cannot afford to see Khartoum continue to be the ''viper's nest of terrorists'' that Secretary of State Albright has described. We should not consign ourselves to merely continuing to support Sudan's neighbors in their battles against it—until we exhaust the opportunities for peace. And we certainly cannot afford to feed Sudan and vast areas of Africa that Sudan's people could feed without U.S. aid if they were left in peace.

In have found that when Americans learn about what is happening in Sudan, they agree that helping to ease suffering there is in keeping with their own values. Christians in particular hear this call to help, because it was our missionaries brought our faith to the people of Sudan. We cannot turn our back on their suffering now, because it is in part inflicted on them because their religion differs from their fundamental Islamic enemies.

I have appreciated the kind offers of help that have been extended by our colleagues, Mr. Speaker, as well as the many concerned Americans who have contacted me. There are strong, responsible humanitarian organizations working to relieve suffering in Sudan, and some of the most heroic and dedicated aid workers I have ever met are on the job every day there.

I would like to close by listing these organizations, along with ways for people who share my concern can contact them to learn more about their good work: Adventist Development and Relief Agency; CARE; Catholic Relief Services; Christian Reformed World Relief Committee; Church World Service; Doctors Without Borders; Friends of the World Food Program; International Rescue Committee; Islamic African Relief Agency; Jesuit Refugee Services; Lutheran World Relief; Mercy Corps International; Norwegian People's Aid (c/o U.S. Committee for Refugees); Oxfam International; Oxfam U.S.A.; World Concern Development Organization; World Vision U.S.; U.S. Committee for UNICEF.

For additional information, those interested also can contact Interaction, the American Council for Voluntary International Action, at 202/667–8277.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

SPEECH OF

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1998

Mr. MARKEY. Mr. Speaker, pursuant to the gentleman from Virginia's unanimous consent request of July 21, 1998 that all Members be given 5 legislative days within which to revise and extend their remarks on H.R. 1689 and to insert extraneous material, I wish to take the opportunity to extend upon my earlier remarks regarding this legislation and to respond to some rather incredible—and I believe inaccurate—remarks made by some of my distinguished colleagues regarding this legislation.

As I have indicated, I oppose this bill. If this bill is to become law, however, it is imperative that we clarify what the scienter requirement will be under the national standards created by H.R. 1689. My colleague from California—Representative Cox—seems to believe that standard should not include recklessness. I strongly disagree.

The federal courts have long recognized that recklessness satisfies the scienter requirement of Section 10(b) and Rule 10b-5—the principal antifraud provisions of the federal securities laws. It is true, as some of my colleagues have noted, that in Ernst & Ernst v. Hochfelder, the Supreme Court left open the question of whether recklessness could satisfy the scienter requirement of Section 10(b) and Rule 10b-5. My colleague from California, however, omits to state that the Court explicitly recognized that ''in certain areas of the law recklessness is considered to be a form of intentional conduct for purposes of imposing liability for some act.'' My colleague from California also neglects to state that since Hochfelder was decided, every court of appeals that has considered the question — ten in number — has interpreted the text of Section 10(b) and Rule 10b–5 to impose liability for reckless misconduct.

And these courts had good reason to so hold. Recklessness is vital to protect investors and the integrity of the disclosure process. Without liability for reckless misstatements, injured investors would be able to recover only if they were able to prove that a defendant had intentionally lied. This would enable defendants who deliberately disregarded available information to avoid liability for investor losses, and would encourage corporate chieftains to bury their heads in the sand.

The recklessness standard promotes meaningful disclosure. Our securities laws are premised on disclosure. Issuers of securities must make full and fair disclosure of material facts to investors when offering their securities. If issuers of securities are liable for misstatements and omissions only when they consciously make false disclosures, they will have less incentive to conduct a probing inquiry into any potentially troublesome areas they discover in the course of preparing their disclosure documents. The recklessness standard helps ensure that disclosure is thorough and meaningful because it encourages issuers to know what is taking place in their own companies.

Finally, the recklessness standard helps bring deliberate securities violators to justice by preventing them from hiding behind evidentiary hurdles. Proving a defendant's actual knowledge of fraud in a securities case is often not possible. Defendants in securities fraud cases do not as a matter of course admit their fraudulent intent. Proving actual knowledge is particularly daunting when, as is often true in securities cases, the evidence relating to the defendant's state of mind is entirely circumstantial. As the U.S. Court of Appeals for the Second Circuit—one of the ten courts of appeals to have put their stamp of approval on recklessness—has noted: ''Proof of a defendant's knowledge or intent will often be inferential . . . and cases thus of necessity [are] cast in terms of recklessness. To require in all types of 10b–5 cases that a factfinder must find a specific intent to deceive or defraud would for all intents and purposes disembowel the private cause of action under § 10(b).''

I do agree with my colleague from the state of California that the 1995 Private Securities Litigation Reform Act did not change the scienter requirement for liability. I am deeply troubled, however, by his attempt to attribute to the Reform Act Conference Committee—of which I was a member—an intention to raise the pleading standard beyond that of the Second Circuit—which, at the time of the Reform Act was the strictest pleading standard in the nation. That clearly was not my understanding nor my intent. Indeed, not only is my colleague attempting to revise history, he is doing so in a manner that would create an illogical result. Because the antifraud provisions allow liability for reckless misconduct, it follows that plaintiffs must be allowed to plead that the defendants acted recklessly. To say that defrauded investors can recover for reckless misconduct, but that they must plead something more than reckless misconduct defies logic.

Likewise, I must take strong exception to the suggestion of my colleague from California about the Conference Committee's intentions regarding a footnote in the Statement of Managers. That footnote, inserted at the last minute without my knowledge and without any discussion of the matter by the Members during the Conference Committee meetings, states that the Committee chose ''not to include in the pleading standard certain language relating to motive, opportunity, or recklessness.'' Contrary to my colleague's statements, this footnote—and make no mistake about it, that's all it is, merely a footnote—does not mean that recklessness has been eliminated either as a basis for liability or as a pleading standard. Existence of this footnote in no way mandates that courts not follow the Second Circuit approach to pleading. The Conference Committee and the Congress that passed the Reform Act also chose not to expressly include conscious behavior in the pleading standard. Yet surely no one would suggest that in doing so, the Conference Committee and Congress intended to eliminate liability for conscious misconduct.

My colleague points to the fact that the President vetoed the bill because of his concerns that the conferees intended to adopt a pleading standard higher than the Second Circuit's. Members in both the House and the Senate following the veto made clear that we did no more than adopt the Second Circuit standard. In this regard, I strongly agree with my colleague from California, Congresswoman LOFGREN, who stated in the legislative history following President Clinton's veto: ''The President says he supports the second circuit standard for pleading. So do I. That is what is included in this bill.''

I would suggest that it is the gentleman from California, rather than myself and other opponents of this legislation, that are trying to rewrite history. I continue to feel that both the Reform Act of 1995 and the present legislation are bad for investors and bad for our financial markets. We do not need to compound the harm done by this legislation with revisionist histories that seek to surreptitiously eliminate liability for reckless behavior.

DISAPPROVAL OF MOST-FAVORED-NATION TREATMENT FOR CHINA

SPEECH OF

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1998

Mr. ROEMER. Mr. Speaker, I rise in strong opposition to H.J. Res. 121, disapproving Most Favored Nation trading status with China. I rise in strong support of normal trade relations and continued constructive engagement with China. I support constructive engagement with China as a method of improving our critically important bilateral relationship and pursuing our foreign policy goals to advance human rights and religious freedom. While progress is at times slow and painful, talks and diplomacy are key aspects of this bilateral relationship.

Last year's trip by President Jiang Zemin to the United States to participate in the first U.S.-China Summit in a decade was the first step in achieving our goals through constructive engagement. President Clinton's highly successful trip to China last month demonstrated that constructive engagement is the most effective way to advance our national interests and promote our values. The United States is committed to improving human rights conditions in China, and I strongly believe human rights should remain a firm pillar of U.S. foreign policy.

Under our policy of constructive engagement, China has acted forthrightly to address our differences, including human rights, both privately and publicly, advancing American values and principles of freedom and democracy. Within the past year, Chinese authorities released numerous political dissidents including Wei Jingsheng and Wan Dan as well as religious leaders like Bishop Zhou. China also signed the United Nations Covenant on Economic and Social Rights and has pledged to sign the UN Covenant on Civil and Political Rights in the fall. This has resulted in meaningful improvements in the lives of millions of Chinese.

Despite official restrictions, the number of religious adherents in China is growing rapidly, with tens of thousands of churches, both registered and unregistered, and with tens of millions of worshipers. I am pleased that Presidents Clinton and Jiang agreed to continued exchanges among officials and religious leaders to improve our mutual understanding of the role of religion in each country. The Chinese government has hosted several delegations of U.S. and foreign religious leaders and the UN Working Group on Arbitrary Detention.

These are positive steps and clearly demonstrate that China is working to expand cooperation with us. We must continue to press for more religious freedom in China. As Billy Graham has written, ''Do not treat China as an adversary but as a friend.'' Revoking normal trade relations and disengaging China will not help its people achieve religious freedom or improved human rights conditions.

Our policy of constructive engagement has also helped expand cooperation with China in critical areas important to our national security: improving financial stability in Asia, preventing the spread of chemical and biological agents on ballistic missiles, combating international crime and drug trafficking, protecting the environment and expanding free trade. China's resistance to devaluing its currency is a prime example of China's efforts to work with the international community to help slow the financial crisis in Asia. This is how the United States benefits from constructive engagement with China.

It is also important to recognize that revoking normal trade relations could actually increase our $15.7 trade deficit. At this time, China represents the fastest growing market for U.S. exports and accounts for more than $150 million of exports from my State of Indiana alone. Since every other major trading partner extends normal trade relations to China, revoking this status would give our competitors in Europe and Asia a competitive edge in developing markets from the ground up, thereby placing at risk more than 400,000 high-paying U.S. jobs and billions of dollars worth of future exports. The best way to reduce our trade deficit with China is to use our trade laws to our advantage in order to tear down China's tariff barriers and to help U.S. exporters to compete in China's markets. We must continue to support policies consistent with fair and free trade.

Mr. Speaker, I am confident that constructive engagement with China will lead to more positive results, advancing our trade interests and foreign policy goals regarding improved religious freedom and human rights conditions. I strongly encourage my colleagues to support constructive engagement and vote against this resolution to disapprove normal trade relations.

STRUCTURED SETTLEMENT PROTECTION ACT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. SHAW. Mr. Speaker, Mr. Speaker, today I rise along with my colleague Mr. STARK and a broad bipartisan group of our colleagues from the Ways and Means Committee to introduce the Structured Settlement Protection Act.

The Act addresses serious public policy concerns that are raised by transactions in which so-called factoring companies purchase recoveries under structured settlements from injured victims.

Recently there has been dramatic growth in these transactions in which injured victims are induced by factoring companies to sell off future structured settlement payments intended to cover ongoing living and medical needs in exchange for a sharply-discounted lump sum that then may be dissipated, placing the injured victim in the very predicament the structured settlement was intended to avoid.

As long-time supporters of structured settlements and the congressional policy underlying such settlements, we have grave concerns that these factoring transactions directly undermine the policy of the structured settlement tax rules. The Treasury Department shares these concerns.

Because the purchase of structured settlement payments by factoring companies so directly thwarts the congressional policy underlying the structured settlement tax rules and raises such serious concerns for structured settlements and injured victims, it is appropriate to deal with these concerns in the tax context.

Accordingly, we are proposing legislation to impose a substantial excise tax on the factoring company that purchases the structured settlement payments from the injured victim. The excise tax would be subject to an exception for genuine court-approved hardship cases to protect the limited instances of true hardship.

The following is a detailed discussion of the bill's provisions.

BACKGROUND

In acting to address the concerns over factoring companies that purchase structured settlement payments from injured victims the Treasury Department noted that: ''Congress enacted favorable tax rules intended to encourage the use of structured settlements—and conditioned such tax treatment on the injured person's inability to accelerate, defer, increase or decrease the periodic payments—because recipients of structured settlements are less likely than recipients of lump sum awards to consume their awards too quickly and require public assistance.'' (U.S. Department of the Treasury, General Explanations of the Administration's Revenue Proposals (Feb. 1998), p. 122).

Treasury then observed that by enticing injured victims to sell off their future structured settlement payments in exchange for a heavily discounted lump sum that may then be dissipated: ''These 'factoring transactions' directly undermine the Congressional objective to create an incentive for injured persons to receive periodic payments as settlements of personal injury claims.'' (*Id.*, at p. 122 [emphasis added].)

The Joint Tax Committee's analysis of the issue echoes these concerns: ''Transfer of the payment stream under a structured settlement arrangement arguably subverts the purpose of the Code to promote structured settlements for injured persons. (Joint Committee on Taxation, Description of Revenue Provisions Contained in the President's Fiscal Year 1999 Budget Proposal (JCS–4–98), (February 24, 1998), p. 223).

The Treasury Department in the Administration's FY 1999 Budget has proposed a 20-percent excise tax on factoring companies that purchase structured settlement payments from injured victims. Under the Administration's proposal, ''any person purchasing (or otherwise acquiring for consideration) a structured settlement payment stream would be subject to a 20 percent excise tax on the purchase price, unless such purchase is pursuant to a court order finding that the extraordinary and unanticipated needs of the original recipient render such a transaction desirable.'' (Treasury General Explanation, at p. 122). The proposal would apply to transfers of structured settlement payments made after date of enactment.

DESCRIPTION OF THE ACT

1. STRINGENT EXCISE TAX ON PERSONS WHO ACQUIRE STRUCTURED SETTLEMENT PAYMENTS IN FACTORING TRANSACTIONS

In its analysis of the Administration's proposal, the Joint Tax Committee notes the potential concern that in some cases the imposition of a 20-percent excise tax may result in the factoring company passing the tax along by reducing even further the already-heavily discounted lump sum paid to the injured victim for his or her structured settlement payments. The Joint Committee notes that ''[o]ne possible response to the concern relating to excessively discounted payments might be to raise the excise tax to a level that is certain to stop the transfers (perhaps 100 percent). . . .'' (Joint committee on Taxation, Description of Revenue Provisions Contained in the President's Fiscal Year 1999 Budget Proposal (JCS–4–98) (February 4, 1998), p. 223).

Factoring company purchases of structured settlement payments so directly subvert the Congressional policy underlying structured settlement and raise such serious concerns for structured settlement and the injured victims that it is appropriate to impose on the factoring company a more stringent excise tax rate applied against the amount of the discount reflected in the factoring transaction (subject to a limited exception described below for genuine court-approved hardships).

Accordingly, the Act would impose on the factoring company that acquires structured settlement payments directly or indirectly from the injured victim an excise tax equal to 50 percent of the difference between (I) the total amount of the structured settlement payments purchased by the factoring company, and (ii) the heavily-discounted lump sum paid the by the factoring company to the injured victim.

Similar to the stiff excise taxes imposed on prohibited transactions in the private foundation and pension context—which can range as high as 100 to 200 percent—this stringent excise tax is necessary to address the very serious public policy concerns raised by structured settlement factoring transactions.

Unlike the Administration's proposed tax imposed on the purchase price paid by the factoring company, the excise tax imposed on the factoring company under the Act would use a more stringent tax rate of 50 percent and would apply to the excess of the total amount of the structured settlement payments purchased by the factoring company over the heavily-discounted lump sum paid to the injured victim.

The excise tax under the Act would apply to the factoring of structured settlements in tort cases and in workers' compensation.

A structured settlement factoring transaction subject to the excise tax is broadly defined under the Act as a transfer of structured settlement payment rights (including portions of payments) made for consideration by means of sale, assignment, pledge, or other form of alienation or encumbrance for consideration.

2. EXCEPTION FROM EXCISE TAX FOR GENUINE, COURT-APPROVED HARDSHIP

The stringent excise tax would be coupled with a limited exception for genuine, court-approved financial hardship situations. Drawing upon the hardship standard enunciated in the Treasury proposal, the excise tax would apply to factoring companies in all structured settlement factoring transactions except those in which the transfer of structured settlement payment rights (1) is otherwise permissible under applicable Federal and State law and (2) is undertaken pursuant to the order of a court (or where applicable, an administrative authority) finding

that ''the extraordinary, unanticipated, and imminent needs of the structured settlement recipient or his or her spouse or dependents render such a transfer appropriate.''

This exception is intended to apply to the limited number of cases in which a genuinely ''extraordinary, unanticipated, and imminent hardship'' has actually arisen and been demonstrated to the satisfaction of a court (e.g., serious medical emergency for a family member). In addition as a threshold matter the transfer of structured settlement payment rights must be permissible under applicable law including State law. The Act is not intended by way of the hardship exception to the excise tax or otherwise to override any Federal or State law prohibition or restriction on the transfer of the payment rights or to authorize factoring of payment rights that are not transferable under Federal or State law. For example, the States in general prohibit the factoring of workers' compensation benefits. In addition, the State laws often prohibit or directly restrict transfers of recoveries in various types of personal injury cases, such as wrongful death and medical malpractice.

The relevant court for purposes of the hardship exception would be the original court which had jurisdiction over the underlying action or proceeding that was resolved by means of the structured settlement. In the event that no action had been brought prior to the settlement, the relevant court would be that which would have had jurisdiction over the claim that is the subject of the structured settlement or which would have jurisdiction by reason of the residence of the structured settlement recipient. In those limited instances in which an administrative authority adjudicates, resolves, or otherwise has primary jurisdiction over the claim (e.g., the Vaccine Injury Compensation Trust Fund), the hardship matter would be the province of that applicable administrative authority.

3. NEED TO PROTECT TAX TREATMENT OF ORIGINAL STRUCTURED SETTLEMENT

In the limited instances of extraordinary and unanticipated hardship determined by court order to warrant relief under the hardship exception, adverse tax consequences should not be visited upon the other parties to the original structured settlement. In addition, despite the anti-assignment provisions included in the structured settlement agreements and the applicability of a stringent excise tax on the factoring company, there may be a limited number of non-hardship factoring transactions that still go forward. If the structured settlement tax rules under I.R.C. §§72, 130 and 461(h) has been satisfied at the time of the structured settlement, the original tax treatment of the other parties to the settlement—i.e., the settling defendant (and its liability insurer) and the Code section 130 assignee—should not be jeopardized by a third party transaction that occurs years later and likely unbeknownst to these other parties to the original settlement.

Accordingly, the Act would clarify that if the structured settlement tax rules under I.R.C. §§72, 130, and 461(h) had been satisfied at the time of the structured settlement, the section 130 exclusion of the assignee, the section 461(h) deduction of the settling defendant, and the Code section 72 status of the annuity being used to fund the periodic payments would remain undisturbed.

That is, the assignee's exclusion of income under Code section 130 arising from satisfaction of all of the section 130 qualified assignment rules at the time the structured settlement was entered into years earlier would not be challenged. Similarly, the settling defendant's deduction under Code section 461(h) of the amount paid to the assignee to assume the liability would not be challenged. Finally, the status under Code section 72 of the annuity being used to fund the periodic payments would remain undisturbed.

The Act provides the Secretary of the Treasury with regulatory authority to clarify the treatment of a structured settlement recipient who engages in a factoring transaction. This regulatory authority is provided to enable Treasury to address issues raised regarding the treatment of future periodic payments received by the structured settlement recipient where only a portion of the payments have been factored away, the treatment of the lump sum received in a factoring transaction qualifying for the hardship exception, and the treatment of the lump sum received in the non-hardship situation. It is intended that where the requirements of section 130 are satisfied at the time the structured settlement is entered into, the existence of the hardship exception to the excise tax under the Act shall not be construed as giving rise to any concern over constructive receipt of income by the injured victim at the time of the structured settlement.

4. TAX INFORMATION REPORTING OBLIGATIONS WITH RESPECT TO A STRUCTURED SETTLEMENT FACTORING TRANSACTION

The Act would clarify the tax reporting obligations of the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs. The Act adopts a new section of the Code that is intended to govern the payor's tax reporting obligations in the event of a factoring transaction.

In the case of a court-approved transfer of structured settlement payments of which the person making the payments has actual notice and knowledge, the fact of the transfer and the identity of the acquirer clearly will be known. Accordingly, it is appropriate for the person making the structured settlement payments to make such return and to furnish such tax information statement to the new recipient of the payments as would be applicable under the annuity information reporting procedures of Code section 6041 (e.g., Form 1099–R), because the payor will have the information necessary to make such return and to furnish such statement.

Despite the anti-assignment restrictions applicable to structured settlements and the applicability of a stringent excise tax, there may be a limited number of non-hardship factoring transactions that still go forward. In these instances, if the person making the structured settlement payments has actual notice and knowledge that a structured settlement factoring transaction has taken place, the payor would be obligated to make such return and to furnish such written statement to the payment recipient at such time, and in such manner and form, as the Secretary of the Treasury shall by regulations provide. In these instances, the payor may have incomplete information regarding the factoring transaction, and hence a tailored reporting procedure under Treasury regulations is necessary.

The person making the structured settlement payments would not be subject to any tax reporting obligation if that person lacked such actual notice and knowledge of the factoring transaction.

Under the Act, the term ''acquirer of the structured settlement payment rights'' would be broadly defined to include an individual, trust, estate, partnership, company, or corporation.

The provisions of section 3405 regarding withholding would not apply to the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs.

5. EFFECTIVE DATE

The provisions of the Act would be effective with respect to structured settlement factoring transactions occurring after the date of enactment of the Act.

ELECTIONS IN LEBANON

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 24, 1998

Mr. HAMILTON. Mr. Speaker, I would like to call my colleagues' attention to correspondence Congressman GILMAN and I had with the Department of State regarding the importance of the elections scheduled in Lebanon in 1998.

First, Lebanon had largely free and fair local elections this past May and June. For the first time in 35 years, Lebanon conducted municipal elections, signaling the existence of a vibrant democracy at the local level.

The State Department commends the Lebanese in their efforts to implement a democratic and constitutional process. It is hoped that these changes will bring about reforms in the current system and expand the basic rights of the Lebanese.

Second, presidential elections in Lebanon are scheduled for this fall. We hope they will follow the trend of the municipal elections and be another encouraging sign of the Lebanese Government's commitment to the will of its citizens. The United States should continue to support steps in Lebanon to further meaningful representation and solidify the country's democratic institutions and practices.

The correspondence between the State Department and Congressman GILMAN and myself, including a letter of May 13, 1998 and a State Department reply of July 21, 1998, concerning the elections in Lebanon follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, July 21, 1998.

Hon. LEE H. HAMILTON,
House of Representatives.

DEAR MR. HAMILTON: Thank you for your letter of May 13 to Secretary Albright concerning elections in Lebanon.

The municipal elections concluded on June 14. Thus far, Lebanese from all confessional groups have participated in great numbers—in some municipalities upwards of 75% of registered voters—reinforcing our belief that the Lebanese remain committed to the democratic ideals they share with us. That the polls have occurred with few disturbances speaks volumes about the greatly improved security situation in Lebanon and the control the government maintains in most areas of the country.

The Administration has been very active in encouraging free and fair elections in Lebanon. Since the Lebanese government first discussed holding these first municipal elections in 35 years, the Ambassador and Embassy in Beirut have encouraged the political leadership to demonstrate their commitment to democracy and hold the elections.

This is true for the presidential election as well, to take place in the fall. We have been forceful in asserting that the Lebanese should support democracy and constitutional processes. We would like to see a president who represents not only his confessional group but all Lebanese.

In President Clinton's National Day message to President Hrawi last November, he said: ''In the past year, Lebanon has proceeded along the path towards reconstruction, reconciliation and support for democratic institutions and human rights. In the

coming year, I anticipate these trends will continue as your country holds presidential and municipal elections.''

In the May 21 State Department press briefing, Spokesman James Rubin said in response to a question: ''With respect to Lebanon's first municipal elections in 35 years, we welcome these elections. The United States and Lebanon share democratic traditions, and we have long urged the Lebanese to uphold democracy and support their own constitutional processes. We anticipate that these elections will be free and fair, and we urge the participation of all Lebanese in these elections. It's an opportunity for all Lebanese to make their voices heard in this first opportunity for two generations of Lebanese to determine their local leadership.''

Like you, Mr. Hamilton, we remain committed to the goals of Lebanon's full independence, sovereignty and territorial integrity. We look forward to the day when Lebanon, at peace with her neighbors and free of all foreign forces, resumes her traditional place in the community of nations. We hope that the strong showing of support for democracy on the part of all Lebanese will help make that possible.

We hope this has been of help. Please let us know if there is any further information we can provide.

Sincerely,

BARBARA LARKIN,
Assistant Secretary, Legislative Affairs.

COMMITTEE ON INTERNATIONAL RELATIONS,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 13, 1998.

Hon. MADELEINE K. ALBRIGHT,
Secretary of State, Department of State, Washington, DC.

DEAR MADAM SECRETARY: We write regarding United States policy toward Lebanon and important events that are meant to take place there.

First, we want to commend the Government of Lebanon for scheduling municipal elections, which we understand are to be held on four consecutive Sundays, beginning on May 24. Municipal elections have not been held in Lebanon for over thirty years. We hope that the United States will express publicly the great importance we attach to these elections and to their being held as scheduled.

Second, we write regarding the Presidential elections scheduled to be held in Lebanon this fall. As you recall, in 1995 the term of President Elian Hrawi, the current President, was extended for an additional three years. Syrian President Asad announced that extension on October 11, 1995 while on a trip to Cairo, after almost all of Lebanon's major politicians publicly opposed modifying the constitution to permit the President to serve more than one six-year term.

We have heard some reports that President Hrawi's term will again be extended an additional three years. We urge you to engage in quiet, advance diplomacy for the purpose of trying to preempt another subversion of Lebanon's constitution. We also believe that the United States should make clear publicly that we expect the Presidential elections to occur as scheduled.

We appreciate your consideration of these two issues regarding Lebanon.

With best regards,

Sincerely,

BENJAMIN A. GILMAN,
Chairman.
LEE H. HAMILTON,
Ranking Democratic Member.